§ 39. Amendments to Bills Extending Existing Law or Authority Under Existing Law

To a bill extending an existing law, an amendment modifying the law may be germane.[20] It has been held, for example, that, to a bill extending an existing law in modified form, an amendment proposing further modification of the law is germane.[1] Of course, an amendment must be germane not only to the act sought to be extended but also to the bill providing for such extension, where the bill extends only a portion of an existing law and does not open up other unrelated portions of that law to amendment.[2]

While a bill "extending existing law" may open up the law being extended to germane amendments, a proposition which extends, not the law, but an official's authority under that law, does not open up the basic law to amendment.[3] Therefore it is held that, to a bill temporarily extending an official's authority under existing law, an amendment permanently amending that law is not germane.[4]

Similarly, where a bill has for its sole purpose merely the extension of the time when a certain authority under a law shall become or continue to be effective, or cease to be effective, no amendments which affect other authorities under other provisions of that substantive law are in order.[5] Thus, to a bill extending the provisions of a section of an existing law for an additional period of time, an amendment proposing to add a new section to such law has been held not to be germane.[6] Where a bill merely authorizes appropriations to an agency for a certain period but does not amend the organic law by extending the existence of that agency, the bill does not necessarily open up the law to permanent amendments,[7] and where a bill only authorizes appropriations for an existing program for one year, an amendment to extend the authorization for additional years is not germane.[8]

Furthermore, to a bill continuing and expanding a law, an amendment may be ruled out as not germane even where the provisions contained in the amendment had formerly been an unrelated part of the law in question.[9]

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20. See §§ 39.14, 39.28, infra.

1. See § 39.19, infra.

2. See § 39.20, infra.

3. See § 39.27, infra.

4. *Id.*

5. See § 35.44, supra.

6. See § 39.23, infra.

7. See §§ 39.33, 39.35, 41.14, infra.

8. See § 39.34, infra.

9. See § 39.11, infra.

Price Control Act

§ 39.1 To a bill extending acts that were concerned with the stabilization of prices and wages, an amendment relating to contracts and agreements covering aspects of employee and employer relationships beyond the scope of the bill and the acts sought to be amended was held to be not germane.

In the 78th Congress, during consideration of the bill[10] for extension of the Price Control Act of 1942, the following amendment was offered:[11]

> Amendment offered by Mr. Cravens: Title I of the Emergency Price Control Act of 1942 as amended, is hereby amended by adding the following at the end of section 1 of said title.
>
> Notwithstanding the provisions of any other law, order, or regulation, the National War Labor Board, in the exercise of its authority, may prescribe the terms and conditions of employment (customarily included in collective bargaining agreements) which the parties shall observe, but the Board shall make no order requiring any person—
>
> (1) to sign any contract or agreement to which such person does not voluntarily agree . . .
>
> (3) to agree to submit any dispute to arbitration . . .
>
> (5) to make any indirect wage or salary increase of any kind whatsoever except under regulations promulgated by the President and in strict conformity therewith. . . .

A point of order was raised against the amendment, as follows:

> MR. [BRENT] SPENCE [of Kentucky]: Mr. Chairman, the amendment goes very much further than any of the provisions of the bill we are considering. It not only includes wages but it includes working conditions, the relationship of employer to employee and the settlement of labor disputes, none of which are involved in this bill and none of which, it seems to me, are germane or in the contemplated purposes of any provision of the pending bill.

In defending the amendment, the proponent, Mr. Fadjo Cravens, of Arkansas, stated:[12]

> Mr. Chairman, may I direct the attention of the Chair to the fact that H.R. 4941, section 1, now under consideration, refers to section 1 of the Emergency Price Control Act of 1942, as amended, which in turn refers specifically to the National War Labor Board. I am proceeding on the theory that the express reference to the National War Labor Board would make germane any matter which might control the action or conduct or jurisdiction of that Board.

The Chairman,[13] in ruling on the point of order, stated:[14]

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10. H.R. 4941 (Committee on Banking and Currency).

11. 90 CONG. REC. 5650, 78th Cong. 2d Sess., June 9, 1944.

12. *Id.* at pp. 5650, 5651.

13. Jere Cooper (Tenn.).

14. 90 CONG. REC. 5651, 78th Cong. 2d Sess., June 9, 1944.

The Chair invites attention to the fact that in the Emergency Price Control Act of 1942, as amended, reference is made to stabilization of prices and wages. This act and the Emergency Stabilization Act are amended by provisions of the pending bill.

The Chair also invites attention to the fact that the amendment offered by the gentleman from Arkansas (Mr. Cravens) seeks to include provisions relating to contracts and agreements with respect to employee and employer relationships which are beyond the scope of the pending bill or the appropriate provisions of the acts sought to be amended by the pending bill.

The Chair [also invites] attention to the fact that during discussion of the rule which was adopted for the consideration of the pending bill it was pointed out that a waiver of points of order would be necessary in order to make certain amendments in order, one of which doubtlessly is the amendment here presented by the gentleman from Arkansas [Mr. Cravens]. The rule adopted by the House did not contain such a waiver.

The Chair is therefore constrained to rule that the amendment offered is not germane and sustains the point of order.

§ 39.2 To a bill extending the Price Control Act and containing provisions relating to subsidies on meat and other commodities, an amendment offered to such provisions in order to eliminate the subsidies was held germane.

In the 79th Congress, the Committee of the Whole had under consideration the Emergency Price Control Act,[15] which stated in part as follows:[16]

Be it enacted, etc., That section 1 (b) of the Emergency Price Control Act of 1942, as amended, is amended by striking out "June 30, 1946" and substituting "June 30, 1947."

Sec. 2. Section 6 of the Stabilization Act of 1942, is amended by striking out "June 30, 1946" and substituting "June 30, 1947."

Sec. 3. Title I of the Emergency Price Control Act of 1942, as amended, is amended by inserting after section 1 thereof a new section as follows:

"REMOVAL OF PRICE AND WAGE CONTROLS

"Sec. 1A. (a) It is hereby declared to be the policy of the Congress that the general control of prices and wages, and the use of the subsidy powers conferred by section 2(e) of this act, shall be terminated, without further extension, not later than June 30, 1947, and that on that date the Office of Price Administration shall be abolished. . . .

Sec. 5. Subsection (e) of section 2 of the Emergency Price Control Act of 1942, as amended by the Stabilization Extension Act of 1944, is amended, effective as of July 1, 1946, by inserting "(1)" after "(e)" at the beginning of such subsection, and by striking out the last paragraph of such subsection (e) and inserting in lieu thereof the following paragraphs:

"(2) Subsidy operations, as hereinafter defined, for the fiscal year ending June 30, 1947, shall be limited as follows, subject to the provisions of paragraph (3):

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15. H.R. 6042 (Committee on Banking and Currency).

16. 92 CONG. REC. 3872, 79th Cong. 2d Sess., Apr. 17, 1946.

"(A) With respect to funds of the Commodity Credit Corporation—

(i) for the dairy production payment program, $515,000,000: *Provided*, That in carrying out the dairy production payment program the rate of payment per pound of butterfat delivered shall not be less than 25 percent of the national weighted average rate of payment per hundred pounds of whole milk delivered;

"(ii) for other noncrop programs, $50,000,000; and

"(iii) for the 1946 crop-program operations, $160,000,000:

"*Provided*, That not to exceed 10 percent of each amount specified in clauses (i), (ii), and (iii) of this subparagraph (A) shall be available interchangeably for the operations described in such clauses but in no case shall the total subsidy operations under any one of such clauses be increased by more than 10 percent. . . .

The following amendment was offered: (17)

Amendment offered by Mr. Flannagan: . . .

2. Amend section 5, page 8, line 2, by inserting a colon in lieu of the period at the end of the sentence and adding the following: "*Provided further*, That no funds heretofore or hereafter appropriated to, borrowed under congressional authorization by, or in custody or control of any governmental agency . . . shall be used after June 30, 1946, to continue any existing program or to institute any new program for the payment of subsidies on livestock or meat derived from livestock. . . ."

The following exchange concerned a point of order raised against the amendment:

MR. [FRANK E.] HOOK [of Michigan]: Mr. Chairman, I make a point of order against the amendment on the ground, first, that it is not germane to the bill, and, second, that it goes far beyond the authorization and scope of this bill. The bill only provides for the extension of the Office of Price Administration and Stabilization and this takes in many other acts and agencies. . . .

MR. [JOHN W.] FLANNAGAN [Jr., of Virginia]: The only purpose this amendment would accomplish would be to eliminate entirely meat subsidies.

THE CHAIRMAN: (18) . . . The section relates to the question of subsidies. The amendment offered by the gentleman from Virginia [Mr. Flannagan] likewise relates to the question of subsidies. The Chair believes the amendment is germane and overrules the point of order.

§ 39.3 To a bill to extend the Price Control Act, an amendment providing that notwithstanding any provisions of the act no regulation, order, directive, or allocation shall be issued, made, or maintained with respect to livestock or any edible product processed from livestock was held germane.

In the 79th Congress, during consideration of the Emergency Price Control Act,(19) an amendment was offered (20) as described

17. *Id.* at p. 3904.

18. Jere Cooper (Tenn.).

19. H.R. 6042 (Committee on Banking and Currency).

20. 92 CONG. REC. 3909, 79th Cong. 2d Sess., Apr. 17, 1946.

above. A point of order was raised against the amendment, as follows:

> MR. [FRANK E.] HOOK [of Michigan]: Mr. Chairman, I make a point of order against the amendment on the ground it goes beyond the scope of the bill and is not germane to either the section or the bill.

The Chairman,[1] in ruling on the point of order, stated:

> The gentleman from New York offers an amendment which has been reported, and the gentleman from Michigan has made a point of order against the amendment on the ground that it is not germane and that it goes beyond the scope of the pending bill. The Chair invites attention to the fact that the amendment is confined to the Emergency Price Control Act of 1942 which is sought here to be amended, and the Chair is of the opinion that the amendment is germane.

§ 39.4 To a bill to extend the effective period of the Emergency Price Control Act of 1942 and the Stabilization Act of 1942, an amendment authorizing the diversion of supplies of food from military channels in order to meet critical civilian needs was held germane.

In the 79th Congress, a bill[2] was under consideration extending the Price Control and Stabilization Acts. An amendment previously agreed to[3] stated as follows:

> Amendment offered by Mr. [Thomas A.] Jenkins [of Ohio]: Page 1, after section 2, insert the following section:
>
> "Sec. 3. All powers of the Price Administrator or the Director of Economic Stabilization, with respect to food, granted by or exercised pursuant to a delegation of authority under the Emergency Price Control Act of 1942, the Stabilization Act of 1942, or title III of the Second War Powers Act, as such acts were originally enacted or as they have been amended, except rationing, are hereby transferred to the Secretary of Agriculture; and in any case where, under authority of any such provision of law, powers with respect to food are hereafter delegated, such powers, except rationing, shall be delegated only to the Secretary of Agriculture."

The following amendment was offered to the bill:[4]

> Amendment offered by Mr. [Francis H.] Case of South Dakota: Insert a new section after section 2 to read as follows:
>
> The Secretary of Agriculture shall confer with the Secretary of War and the Secretary of the Navy from time to time on the supplies of meat, sugar, poultry, dairy and vegetable products available in continental United States for military and civilian needs and said Secretary of Agriculture is authorized and directed to

1. Jere Cooper (Tenn.).

2. H.J. Res. 101 (Committee on Banking and Currency).

3. 91 CONG. REC. 6570, 6578, 79th Cong. 1st Sess., June 22, 1945.

4. 91 CONG. REC. 6597, 79th Cong. 1st Sess., June 23, 1945.

borrow or divert from military channels for critical civilian needs such stocks or supplies as he finds can be spared by the military and in such amounts as he can certify to the Secretary of War or the Secretary of the Navy can and will be restored by the time they are needed.

A point of order was raised against the amendment, as follows:

MR. [BRENT] SPENCE [of Kentucky]: Mr. Chairman, I make the point of order that the amendment is not germane to the bill; that it includes matters not contemplated by the bill, and it goes far beyond the scope of the bill.

The Chairman,[5] in ruling on the point of order, stated:[6]

. . . The amendment confers certain discretionary authority on the Secretary of Agriculture to make certain findings and to receive certain information from the Secretary of War and the Secretary of the Navy. The pending bill, especially since the adoption of the amendment on yesterday which was offered by the gentleman from Ohio [Mr. Jenkins], not only confers certain discretionary authority upon the Secretary of Agriculture but imposes certain definite duties and responsibilities upon the Secretary of Agriculture to make certain findings. Therefore the Chair is of the opinion that the amendment is in order especially in view of the present form of the pending bill at this stage. The Chair overrules the point of order.

5. Jere Cooper (Tenn.).

6. 91 CONG. REC. 6598, 79th Cong. 1st Sess., June 23, 1945.

—*Amendment Waiving Other Laws*

§ 39.5 To a bill to extend the Price Control Act and the Stabilization Act of 1942, an amendment relating not only to these acts but also to "any other act or acts" was held to be not germane.

In the 79th Congress, during consideration of the Emergency Price Control Act,[7] the following amendment was offered:[8]

Amendment offered by Mr. [Jesse P.] Wolcott [of Michigan]: Page 1, line 5, after section 1, insert a new section, as follows:

Sec. 2. Notwithstanding the provisions of this act, the Stabilization Act of 1942, or any other act or acts, no maximum price shall be established or maintained for any commodity below [a certain price] . . .

A point of order was raised against the amendment, as follows:

MR. [BRENT] SPENCE [of Kentucky]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to the bill. It refers not only to this act but "or any other act or acts," which is far beyond the purview of the bill and is not germane.

In defense of the amendment, the proponent stated:

7. H.R. 6042 (Committee on Banking and Currency).

8. 92 CONG. REC. 3885, 79th Cong. 2d Sess., Apr. 17, 1946.

Mr. Chairman, the Emergency Price Control Act of 1942 and the Stabilization Act of 1942 are being amended by the bill pending before the committee. Any other act which might have a bearing or might be incidental to the provisions of [these acts] are, of course, clearly within the purview of the subject matter of the extension acts.

This amendment would apply only, of course, to such act as would be affected by the amendment, acts which in turn, as I have said, might be incidental to the Emergency Price Control Act and the Stabilization Act. . . .

The Chairman,[9] in ruling on the point of order, stated:

The Chair invites attention to the fact that the pending bill seeks to extend for a definite period of time two acts, the Emergency Price Control Act of 1942, and the Stabilization Act of 1942. The Chair also invites attention to the fact that the amendment offered by the gentleman from Michigan (Mr. Wolcott) seeks to deal not only with the two acts to which attention has been invited, but also includes this language: "or any other act or acts" which, in the opinion of the Chair, makes it too broad.

It is conceivable that many acts might thus be affected that would not even come under the jurisdiction of the committee having charge of the bill now under consideration. The Chair is of the opinion that the amendment as offered is not germane and, therefore, sustains the point of order.

§ 39.6 To a bill to extend the Emergency Price Control Act and the Stabilization Act of 1942, an amendment referring to "this or any other law" was held to go beyond the scope of the pending bill and therefore was not germane.

In the 79th Congress, during consideration of the Emergency Price Control Act,[10] the following amendment was offered:[11]

Amendment offered by Mr. August H. Andresen [of Minnesota]: On page 1, after section 2, insert the following new section:

Sec. 3. Subsection (e) of section 3 of the Emergency Price Control Act of 1942, as amended, is amended to read as follows:

"(e) Notwithstanding any provision of this act or any other law, no regulation, order . . . or allocation shall be made or issued, or any other action taken . . . with respect to any agricultural commodity . . . by the Administrator or by any agency of the Government or the head thereof, without the prior written and voluntary approval of the Secretary of Agriculture. . . ."

A point of order was raised against the amendment, as follows:

MR. [BRENT] SPENCE [of Kentucky]: Mr. Chairman, I make a point of order against the amendment that it is not germane to the bill. The amendment provides for allocations under the Sec-

9. Jere Cooper (Tenn.).

10. H.R. 6042 (Committee on Banking and Currency).

11. 92 CONG. REC. 3931, 79th Cong. 2d Sess., Apr. 17, 1946.

ond War Powers Act, and therefore, is not germane to the pending bill.

The Chairman,[12] in ruling on the point of order, stated:

> . . . The Chairman invites attention to the fact that the pending bill seeks to extend for a limited or definite time two existing acts, the Emergency Price Control Act of 1942 and the Stabilization Act of 1942. The Chair invites attention to the fact that the gentleman's amendment relates to any other law which is much broader than the pending bill and might affect many agencies not at all affected by the pending bill. Therefore, the Chair is of the opinion that the amendment is not germane. . . .

—*Amendment Affecting Issuance of Tokens as Authorized Under Another Act*

§ 39.7 To a bill extending the Emergency Price Control Act, an amendment to prohibit the Office of Price Administration from issuing any ration tokens of less than a certain diameter and to require destruction of smaller tokens previously issued was held to be germane, even though such prior issuance of tokens had occurred under powers granted by the War Powers Act rather than the Emergency Price Control Act.

In the 78th Congress, a bill[13] was under consideration extending the Emergency Price Control Act of 1942. The following amendment was offered to the bill:[14]

> Amendment offered by Mr. [Carl] Hinshaw [of California]: Page 13, after line 2, insert a new section:
>
> The Office of Price Administration shall not issue any token or authorize the issuance of any token having a diameter of less than 0.900 inch, and shall forthwith cause to be withdrawn from circulation and destroyed any tokens of a lesser diameter that may have been issued or authorized to be issued heretofore.

A point of order against the amendment was raised by Mr. Jesse P. Wolcott, of Michigan, who contended that the amendment was not germane to the bill.[15] The following exchange then occurred:[16]

> THE CHAIRMAN:[17] May the Chair inquire of the gentleman, has the Office of Price Administration issued tokens up to this time?
>
> MR. WOLCOTT: They have under the powers which they receive under the War Powers Act but not under the powers they received under this act.
>
> THE CHAIRMAN: But the Administration does issue tokens?

12. Jere Cooper (Tenn.).

13. H.R. 4941 (Committee on Banking and Currency).

14. 90 CONG. REC. 5816, 78th Cong. 2d Sess., June 12, 1944.

15. *Id.* at pp. 5816, 5817.

16. *Id.* at p. 5817.

17. Jere Cooper (Tenn.).

MR. WOLCOTT: Yes.

THE CHAIRMAN: This would be a restriction of that, in the opinion of the Chair; therefore the Chair is constrained to overrule the point of order.

Authority Respecting Price and Distribution of Sugar—Amendment Affecting Other Commodities

§ 39.8 To a proposition extending the powers and authorities under certain statutes with respect to the distribution and pricing of sugar, an amendment adding a new section to one of those statutes and relating to the sale of commodities other than sugar was held not germane.

The following proceedings took place in the 80th Congress: [18]

THE CHAIRMAN: [19] There being no further requests for time, under the rule the Clerk will read the committee amendment which will be considered as an original bill.

The Clerk read as follows:

That (a) notwithstanding any other provisions of law, the Emergency Price Control Act of 1942 (56 Stat. 23); the Stabilization Act, 1942 (56 Stat. 765); title III of the Second War Powers Act, 1942 (56 Stat. 177), and the amendment to existing law made thereby; title XIV of the Second War Powers Act, 1942 (56 Stat. 177); and section 6 of the act of July 2, 1940 (54 Stat. 714), all as amended and extended, shall continue in effect with respect to sugar to and including October 31, 1947. . . .

Subsequently, the following amendment was offered: [20]

Amendment offered by Mr. Dirksen: After line 7, on page 11, add a new section reading as follows:

Sec. 6. A new section is added to the Emergency Price Control Act of 1942, as amended, to read as follows:

"Notwithstanding anything to the contrary in this act, no action shall be instituted or maintained under section 205(a) or 205(e) by the Administrator, or on behalf of the United States by any other officer or agency of the Government, if the violation arose out of the sale of a commodity other than sugar or rice or the payment or receipt of rent for defense area housing accommodations."

The following exchange [1] concerned a point of order raised against the amendment:

MR. [A.S. MIKE] MONRONEY [of Oklahoma]: Mr. Chairman, I make the point of order against the amendment that it is not germane to the bill under consideration. . . .

MR. [EVERETT M.] DIRKSEN [of Illinois]: . . . Mr. Chairman, with re-

18. 93 CONG. REC. 2408, 80th Cong. 1st Sess., Mar. 21, 1947. Under consideration was H.J. Res. 146 (Committee on Banking and Currency), extending powers and authorities under certain statutes with respect to the distribution and pricing of sugar.

19. W. Sterling Cole (N.Y.).

20. 93 CONG. REC. 2415, 80th Cong. 1st Sess., Mar. 21, 1947.

1. *Id.* at pp. 2415, 2416.

spect to the point of order it did occur to me that because of the general policy set out in the bill, and in view of the fact that it relates to the whole OPA act, the Stabilization Act and the Second War Powers Act, that it might be germane to the bill, notwithstanding the fact that it deals broadly with OPA, whereas the bill in question relates only to one commodity. . . .

MR. MONRONEY: Mr. Chairman, since this bill deals exclusively with sugar, and since the amendment offered by the gentleman from Illinois specifically exempts sugar from any consideration in the amendment, I renew my point of order against the gentleman's amendment.

THE CHAIRMAN: . . . As indicated by the gentleman from Oklahoma, the resolution before the Committee, both in its title and in the provisions contained in the body of the bill, relates solely and exclusively to the commodity of sugar.

The amendment offered by the gentleman from Illinois seeks to amend the Emergency Price Control Act of 1942 by adding a new section. The effect of that amendment is to cover commodities of all sorts, types, and descriptions, remedies, penalties, and procedures covered by the Price Control Act of 1942, with the exception of sugar; therefore, in the opinion of the Chair, it is not germane to the resolution before the Committee of the Whole, and the Chair sustains the point of order. . . .

Emergency Powers Continuation Act—Amendment Requesting President To Invoke Emergency Powers Under Another Act

§ 39.9 To a joint resolution proposing to continue certain statutory provisions in effect for a specified time, an amendment requesting the President to invoke certain emergency provisions of a permanent law not extended in the bill and within another committee's jurisdiction was held to be not germane.

In the 82d Congress, a joint resolution [2] was under consideration which stated in part: [3]

Resolved [That]—

(a) The following statutory provisions . . . in addition to coming into full force and effect in time of war or otherwise where their terms so provide, shall remain in full force and effect until 6 months after the termination of the national emergency proclaimed by the President on December 16, 1950 (Proc. 2914, 3 CFR, 1950 Supp., p. 71), or until such earlier date or dates as may be provided by the Congress by concurrent resolution either generally or for a particular statutory provision or by the President either generally by proclamation or for a particular statutory provision, but in no event beyond June 30, 1953 . . . :

(1) Act of December 17, 1942 (ch. 739, sec. 1, 56 Stat. 1053), as amended (50 U.S.C. App. 1201). . . .

(2) Act of March 27, 1942 (ch. 199, secs. 1301–1304, 56 Stat. 185–186; 50 U.S.C. App. 643, 643a, 643b, 643c). . . .

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2. The Emergency Powers Continuation Act, H.J. Res. 477 (Committee on the Judiciary).

3. 98 CONG. REC. 7067, 82d Cong. 2d Sess., June 11, 1952.

An amendment was offered, as follows: (4)

> Amendment offered by Mr. Davis of Georgia: Page 14, after line 2, insert the following:
>
> > Sec. 8. The Congress hereby finds that, by reason of the work stoppage now existing in the steel industry, the national safety is imperiled, and therefore the Congress requests the President to immediately invoke the national emergency provisions (secs. 206 to 210, inclusive) of the Labor Management Relations Act, 1947, for the purpose of terminating such work stoppage.

A point of order was raised against the amendment, as follows:

> MR. [MICHAEL A.] FEIGHAN [of Ohio]: Mr. Chairman, I raise the point of order that the amendment is entirely new legislation and not germane or relevant to the resolution under discussion, or any of the 48 statutes included therein.

In defending the amendment, the proponent, Mr. James C. Davis, of Georgia, stated:

> The immediate need of this country is not to initiate new legislation which must be . . . brought to the floor of the House through the various stages of parliamentary procedure involved in the progress of every bill. The immediate need of the country is for the production of steel to be resumed. The President on yesterday emphasized that need. He told us that there are two principal methods open to achieve that goal: Namely, first, Government operation of the steel mills; and, second, the use of the Taft-Hartley law. He specially asked Congress to make a choice between these two methods. . . .
>
> In my opinion, the use of the Taft-Hartley law in this present emergency is the quickest method by which steel production can be resumed.

The Chairman,(5) in ruling on the point of order, stated: (6)

> The gentleman from Georgia offers an amendment to House Joint Resolution 477. . . . The Chair finds that the amendment of the gentleman from Georgia pertains to the invoking of permanent law under certain circumstances, whereas the joint resolution under consideration refers to the extension of certain specified temporary powers. The subject matter contained in the amendment offered by the gentleman from Georgia is, under the rules of the House, within the jurisdiction of the Committee on Education and Labor and not within the jurisdiction of the Committee on the Judiciary which reported the pending resolution. The Chair finds therefore that the amendment is not germane to the pending joint resolution.

Defense Production Act—Amendment Empowering President To Seize Plants Threatened by Work Stoppages

§ 39.10 To a bill extending and amending a law containing

4. *Id.* at p. 7069.

5. Aime J. Forand (R.I.).

6. 98 CONG. REC. 7070, 82d Cong. 2d Sess., June 11, 1952.

provisions for settlement of labor disputes by reliance upon negotiation by the parties to the disputes, an amendment empowering the President to take possession of and operate certain plants closed by or threatened with work stoppages was held to be not germane as constituting a change of labor law.

In the 82d Congress, during consideration of the Defense Production Act Amendments of 1952,[7] the following amendment was offered:[8]

> Amendment offered by Mr. [Richard W.] Bolling [of Missouri]: On page 3, line 15, insert the following section:
>
> Sec. 103. Title II of the Defense Production Act of 1950, as amended, is amended by adding at the end thereof the following new section:
>
> "Sec. 202. (a) Whenever the President of the United States . . . shall find that the national defense is endangered by a stoppage of production or a threatened stoppage of production in any one or more plants, mines, or facilities, as a result of the present management-labor dispute in the steel industry, the President is empowered and authorized to take possession of and to operate such plants, mines, or facilities. . . .
>
> "(b) During the period in which the United States is in possession of any plant under this section, the duly designated representatives of the employees and the management of the plant shall be obliged to continue collective bargaining for the purpose of settling the issues in dispute. . . .
>
> "(d)(1) When possession of any plant has been taken by the United States . . . a compensation board of five members shall be established. . . . The compensation board shall determine (i) the amount to be paid as just compensation to the owner of any plant of which possession is taken and (ii) fair terms and conditions of employment of the employees in any such plant for the period of operation by the United States, other than changes relating to union shop, maintenance of membership, and similar arrangements between employers and employees. . . ."

A point of order was raised against the amendment, as follows:

> MR. [JAMES G.] FULTON [of Pennsylvania]: Mr. Chairman, I make the point of order that the amendment is out of order on the ground that it is not germane to this section or to this bill; that it is affirmative legislation not within the purview of the jurisdiction covered by the language of this act.

Subsequently, Mr. Howard W. Smith, of Virginia, stated:[9]

> Mr. Chairman, a point of order. . . .
>
> Mr. Chairman, the point of order is that the amendment is not germane to the pending bill, it involves labor legislation exclusively within the jurisdiction of the Committee on Education and Labor.

7. H.R. 8210 (Committee on Banking and Currency).

8. 98 CONG. REC. 7654, 82d Cong. 2d Sess., June 19, 1952.

9. *Id.* at p. 7655.

The Chairman,[10] in ruling on the point of order, stated:

> The Chair has had an opportunity to study the amendment offered by the gentleman from Missouri [Mr. Bolling] and it is the opinion of the Chair that the amendment proposes to make basic changes in our labor legislation. The amendment proposes further to amend title II of the Defense Production Act of 1950, which is the authority to requisition property. The amendment goes beyond, as the Chair understands the amendment, the mere requisition of property and, as the Chair has stated, proposes to make changes in our labor laws.
>
> In view of the fact that it goes beyond the scope of title II of the Defense Production Act of 1950, the Chair is constrained to sustain the point of order made by the gentleman from Pennsylvania [Mr. Fulton].

Economic Opportunity Act—Amendment Reactivating Program That Had Expired

§ 39.11 To a bill expanding the war on poverty by amending and increasing the authorizations contained in the Economic Opportunity Act of 1964, an amendment reactivating a program, which had been contained in the original act as a nongermane provision but had expired, providing for certain indemnity payments to dairy farmers, was held to be not germane.

On July 22, 1965,[11] during consideration of the Economic Opportunity Act of 1965,[12] Mr. Carlton R. Sickles, of Maryland, offered an amendment relating to certain indemnity payments to dairy farmers. In describing the purposes of the amendment, he stated:

> Mr. Chairman, section 331 of the Economic Opportunity Act, unless extended, will terminate on June 30, 1965. This section authorizes indemnity payments to be made to dairy farmers who, through no fault of their own, have had their milk barred from commercial markets because the milk contained minute residues of pesticides that were approved for use by the Federal Government at the time of their use. It is imperative that the Congress not let this pesticide indemnity law die on June 30 but act immediately to extend it to June 30, 1967. . . .

Mr. Adam C. Powell, Jr., of New York, having made the point of order that the amendment was not germane, the following exchange ensued:[13]

> MR. [MELVIN R.] LAIRD [of Wisconsin]: I would like to point out that this language is currently in the present law and is part of the poverty program as now in existence. This is section 331(c)(1) of the present Eco-

10. Wilbur D. Mills (Ark.).

11. 111 CONG. REC. 17949, 89th Cong. 1st Sess.

12. H.R. 8283 (Committee on Education and Labor).

13. 111 CONG. REC. 17950, 89th Cong. 1st Sess.

nomic Opportunity Act. It has been carried in the law for the last 12 months. It is a part of the poverty program as we know the poverty program now. . . .

MR. POWELL: Mr. Chairman, this law expired on June 30. It is not part of the law now.

MR. SICKLES: The whole law expired.

The Chairman,[14] in ruling on the point of order, stated:

> The gentleman offers an amendment at page 7 after line 16 with regard to the continuation of indemnity payments to dairy farmers. . . . It would appear to the Chair that this bill does not have anything to do with this particular subject with regard to indemnity payments to dairy farmers. Therefore, the Chair is constrained to rule that the amendment is subject to the gentleman's point of order and the point of order is sustained.

Provisions Affecting Specific Agricultural Commodity Broadened by More General Amendment

§ 39.12 To a bill extending those provisions that excluded "boiled peanuts" from the definition of "peanuts" under the Agricultural Adjustment Act of 1938, an amendment proposing to exclude from the Act's provisions "all peanuts produced" was held to be not germane.

In the 88th Congress, a bill[15] was under consideration to extend for two years the definition of "peanuts" in effect under the Agricultural Adjustment Act of 1938, which was an act to establish acreage allotments and marketing quotas. An amendment was offered[16] as described above, and the following point of order was made:[17]

> MR. [WATKINS M.] ABBITT [of Virginia]: . . . I make the point of order that the amendment is not germane. The bill simply deals with a class of peanuts. The amendment deals with an entirely different class, and is not in order, as it would change the entire concept of the legislation, as well as wipe out the peanut program. . . .

The Chairman,[18] in ruling on the point of order, stated:[19]

> As a general rule, one individual proposition may not be amended by any other individual proposition, even though the two may belong to the same class.

Also citing to an instance in which, "To a bill amendatory of one section of an existing law an amendment proposing further

14. John J. Rooney (N.Y.).

15. H.R. 101 (Committee on Agriculture).

16. See 109 CONG. REC. 12777, 88th Cong. 1st Sess., July 17, 1963.

17. *Id.* at pp. 12777, 12778.

18. John James Flynt, Jr. (Ga.).

19. 109 CONG. REC. 12778, 88th Cong. 1st Sess., July 17, 1963.

modification of the law was held not to be germane,'' the Chair sustained the point of order.

§ 39.13 To a bill extending those provisions that excluded "boiled peanuts" from the definition of "peanuts" under the Agricultural Adjustment Act of 1938, an amendment proposing to enlarge the excluded class to "any agricultural commodity, which prior to being marketed as a foodstuff is boiled and dried," was held to be not germane.

In the 88th Congress, a bill [20] was under consideration to extend for two years the definition of ''peanuts'' in effect under the Agricultural Adjustment Act of 1938, which was an act to establish acreage allotments and marketing quotas. An amendment was offered, as follows: [1]

> Amendment offered by Mr. [Robert J.] Dole [of Kansas]: On page 1, line 8, strike the period and insert the following: ''and the first paragraph of such Act is amended by striking the period at the end thereof and by adding the following: '*Provided*, That notwithstanding any other provision of law, the exemption from acreage allotments and marketing quotas as provided for herein for boiled peanuts shall also apply to any agricultural commodity, which prior to being marketed as a foodstuff is boiled and dried.' ''

A point of order was raised against the amendment, as follows:

> MR. [WATKINS M.] ABBITT [of Virginia]: Mr. Chairman, I make the point of order that this amendment is not germane and it is apparent on its face. This amendment deals not only with peanuts but with all commodities, therefore, it is not in order.

The Chairman,[2] in ruling on the point of order, stated:

> The amendment offered by the gentleman from Kansas would extend the legislation to other commodities than those covered by the pending legislation. While the amendment offered by the gentleman from Kansas would amend the general law, the Chair rules that the amendment is not germane to the pending bill and, therefore, sustains the point of order.

Mexican Farm Labor Program

§ 39.14 To a bill continuing for one year the Mexican farm labor program, an amendment modifying the program by requiring the Secretary of Labor to determine that reasonable efforts have been made to hire domestic work-

20. H.R. 101 (Committee on Agriculture).

1. 109 CONG. REC. 12778, 88th Cong. 1st Sess., July 17, 1963.

2. John James Flynt, Jr. (Ga.).

ers under working conditions comparable in specified instances to those provided to foreign workers was held to be germane.

In the 88th Congress, during consideration of a bill[3] extending the Mexican farm labor program, an amendment was offered[4] as described above, specifying the areas respecting which the Secretary's determination would be made. The areas included workmen's compensation, housing, and transportation. A point of order was raised against the amendment, as follows:

MR. [WATKINS M.] ABBITT [of Virginia]: Mr. Chairman, I make a point of order against the amendment for two reasons.

Mr. Chairman, first, I make the point of order that the amendment to section 503 of Public Law 78 is not germane to H.R. 8195, on the basis that the amendment being offered to section 503 deals not with a proposition providing for Mexican farm labor, but rather with a proposition providing for domestic migratory labor, and is within the purview of the precedents set forth in sections 2953, 2954, and 2955 of volume 8, Cannon's Precedents.

Section 2953 states:

> To a proposition providing for a class, a proposition providing for another related class is not germane. . . .

Section 503 of the act deals with the conditions under which the Mexican laborer will be allowed to work. This requires that the imported labor not be allowed to work until the conditions of this section are met.

The proposed amendment should be considered in a separate bill covering working conditions of American workers, and should be considered by the Education and Labor Committee. . . .

Mr. Chairman, I also make the point of order that the amendment to section 503 of the act is not germane to the bill, H.R. 8195.

The bill simply extends a program which deals with a class of farmworkers, in this case Mexican nationals. The amendment deals with an entirely different class of workers—U.S. citizens who are migratory farm laborers. . . .

The Chairman,[5] in ruling on the point of order, stated:[6]

Under the rule of germaneness, an act continuing and reenacting an existing law is subject to amendment modifying the provisions of the law carried in the act.

The Chair rules that the amendment is germane, and the point of order is overruled.

3. H.R. 8195 (Committee on Agriculture).

4. 100 CONG. REC. 20728, 88th Cong. 1st Sess., Oct. 31, 1963. For discussion of another amendment held to be germane to the same bill, even though such amendment modified terms of the program being extended, see § 29.2, supra.

5. William H. Natcher (Ky.).

6. 109 CONG. REC. 20729, 88th Cong. 1st Sess., Oct. 31, 1963.

§ 39.15 To a bill extending that part of the Agricultural Act of 1949, as amended, authorizing the Secretary of Labor to assist in supplying agricultural workers from Mexico, an amendment requiring the Secretary of Agriculture, after consultation with the Interstate Commerce Commission, to prescribe employer regulations for the adequate safety, health and welfare of workers being transported, was held to be germane.

In the 84th Congress, during consideration of a bill[7] extending provisions of the Agricultural Act of 1949, the following amendment was offered:[8]

> Amendment offered by Mr. Rogers of Colorado to the committee amendment: Page 2, after line 18, insert the following:
>
> Sec. 4. Title V of such act, as amended, is further amended by adding at the end thereof the following new section:
>
> "Sec. 10. The Secretary of Agriculture, after consultation with the Interstate Commerce Commission, shall prescribe such regulations as may be necessary to require employers to provide adequately for the safety, health, and welfare of workers while they are being transported from reception centers to the places of their employment and returned from such places to reception centers after termination of employment. Any person who violates any such regulation shall, for each violation, be fined not more than $1,000 or imprisoned not more than 6 months or both."

The following exchange concerned a point of order raised against the amendment:

> MR. [EZEKIEL C.] GATHINGS [of Arkansas]: The amendment is not germane inasmuch as it calls for consultation by the Secretary of Agriculture with the Interstate Commerce Commission, and the Interstate Commerce Commission is not in anywise affected by this legislation. Furthermore, the Secretary of Agriculture does not administer this program; the program is administered by the Secretary of Labor. I think therefore the amendment clearly is not germane. . . .
>
> MR. [BYRON G.] ROGERS of Colorado: Mr. Chairman, I think it is very evident that the amendment itself only directs that the Secretary of Agriculture after consultation with the Interstate Commerce Commission shall prescribe such regulations as may be necessary. The fact is that this legislation is given to the Secretary of Agriculture for administration, and we leave it with him for that purpose with consultation merely a factor so that he may be assisted in proper regulations as far as they may be enforced by the Interstate Commerce Commission. Therefore the amendment is germane.
>
> THE CHAIRMAN:[9] . . . From a reading of the amendment it is apparent

7. H.R. 3822 (Committee on Agriculture).

8. 101 CONG. REC. 10019, 84th Cong. 1st Sess., July 6, 1955.

9. Jamie L. Whitten (Miss.).

that all the actions are required of the Secretary of Agriculture; no specific action is required of the Interstate Commerce Commission.

The amendment attempts to change the provisions of the bill having to do with employee safety, health, and welfare; and it is quite clearly, in the opinion of the Chair, germane to the bill.

The point of order is overruled. . . .

Agricultural Price Support Program

§ 39.16 To a bill extending the agriculture price support program, an amendment proposing to change the method of computing the parity price of a commodity was held to be not germane.

In the 80th Congress, a bill [10] was under consideration whose basic purpose was to provide for continuation of agricultural price support programs. The bill stated in part: [11]

> *Be it enacted, etc.*, That, notwithstanding any other provision of law, the Secretary of Agriculture is authorized and directed through any instrumentality or agency within or under the direction of the Department of Agriculture, by loans, purchases, or other operations—
>
> (a) to support prices received by producers of cotton, wheat, corn, tobacco, rice, and peanuts harvested before December 31, 1949, if producers have not disapproved marketing quotas for such commodity for the marketing year beginning in the calendar year in which the crop is harvested. The price support authorized by this subsection shall be made available as follows:
>
> (1) To cooperators (except cooperators outside the commercial corn-producing area, in the case of corn) at the rate of 90 percent of the parity price for the commodity as of the beginning of the marketing year; . . .
>
> (3) To noncooperators (except noncooperators outside the commercial corn-producing area, in the case of corn) at the rate of 60 percent of the rate specified in (1) above and only on so much of the commodity as would be subject to penalty if marketed.
>
> All provisions of law applicable with respect to loans under the Agricultural Adjustment Act of 1938, as amended, shall, insofar as they are consistent with the provisions of this section, be applicable with respect to loans or other price-support operations authorized under this subsection.
>
> (b) To support until December 31, 1949, a price to producers of commodities with respect to which the Secretary of Agriculture by public announcement pursuant to the provisions of the act of July 1, 1941, as amended, requested an expansion of production of not less than 60 percent of the parity or comparable price therefor nor more than the level at which any such commodity was supported in 1948. The comparable price for any such commodity shall be determined and used by the Secretary for the purposes of this subsection if the production or consumption of such commodity has so changed in extent or character since the base period as to result in a price out of line with parity prices for the commodities referred to in (a) hereof.

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10. H.R. 6248 (Committee on Agriculture).

11. 94 CONG. REC. 7904, 80th Cong. 2d Sess., June 11, 1948.

(c) Sections 1 and 3 of the act approved August 5, 1947 (Public Law 360, 80th Cong.), are amended by striking out in each section the date "1948" wherever it appears and inserting in lieu thereof the date "1949."

(d) It is hereby declared to be the policy of the Congress that the lending and purchase operations of the Department of Agriculture (other than those referred to in subsections (a), (b), and (c) hereof) shall be carried out so as to bring the price and income of the producers of other agricultural commodities not covered by subsections (a), (b), and (c) to a fair parity relationship with the commodities included under subsections (a), (b), and (c), to the extent that funds for such operations are available after taking into account the operations with respect to the commodities covered by subsections (a), (b), and (c), and the ability of producers to bring supplies into line with demand.

An amendment was offered[12] stating that, "For the purpose of computing the parity price of Maryland tobacco, the base period shall be the period August 1936 to July 1941 in lieu of the period August 1919 to July 1929." The following exchange concerned a point of order raised against the amendment:

MR. [CLIFFORD R.] HOPE [of Kansas]: Mr. Chairman, I make the point of order that the amendment is not germane. . . .

Mr. Chairman, this bill, and the section to which the amendment is offered, merely extends the price-support program. It does not in any way deal with the parity formula or with the base period upon which parity may be computed. The amendment offered by the gentleman from Maryland deals with one subject only, and that is, it sets up a new base period upon which to compute parity for Maryland tobacco. It clearly does not have any place in this bill which does not in any way deal with the subject of parity or the parity formula.

MR. [LANSDALE G.] SASSCER [of Maryland]: As I understand, the bill relates to parity, and in order to get loans you have to have a base to get the parity. This relates to the base, and my contention is that the two are interlocked; that you cannot have parity without a base. . . .

THE CHAIRMAN:[13] . . . The gentleman from Maryland offers an amendment which has, as its principal purpose, a change in computing the parity price for Maryland tobacco. The Chair feels . . . that this is beyond the scope of the bill presently under consideration and therefore sustains the point of order.

Agricultural Trade Development and Assistance Act—Amendment Providing Food Stamp Program

§ 39.17 An amendment providing a new and comprehensive food stamp plan for the distribution of surplus products was held to be germane to a bill amending

12. 94 CONG. REC. 8013, 80th Cong. 2d Sess., June 12, 1948.

13. John Z. Anderson (Calif.).

and extending the Agricultural Trade Development and Assistance Act of 1954, where the 1954 act had authorized the Commodity Credit Corporation to make surplus agricultural products available for needy persons in the United States.

In the 86th Congress, during consideration of a bill[14] amending the Agricultural Trade Development and Assistance Act of 1954, the following amendment was offered:[15]

> Amendment offered by Mrs. [Leonor K.] Sullivan [of Missouri]: On page 8, after line 23, insert the following new section 14 . . .
>
> Sec. 14. Title III of the Agricultural Trade Development and Assistance Act of 1954, as amended, is further amended by adding at the end thereof the following new section:
>
> "Sec. 306. (a) In order to promote the general welfare, raise the levels of health and of nourishment for persons whose incomes prevent them from enjoying adequate diets, and dispose in a beneficial manner of food commodities acquired by the Commodity Credit Corporation or the Department of Agriculture in carrying out price support operations or diverted from the normal channels of trade and commmerce under section 32 of the Act of August 24, 1935, as amended, the Secretary of Agriculture . . . is hereby authorized to promulgate and put into operation . . . a program to distribute to needy persons in the United States through a food stamp system such surplus food commodities. . . ."

A point of order was raised against the amendment, as follows:[16]

> MR. [CHARLES B.] HOEVEN [of Iowa]: Mr. Chairman, I make the point of order that the amendment is not germane to the extension of Public Law 480, as incorporated in the bill H.R. 8609.
>
> The amendment proposes to establish a new distribution system within the United States. H.R. 8609 contains no such provision to which this proposed amendment is germane.
>
> In addition, the proposed amendment would suspend the operation of section 416 of the Agricultural Act of 1949, as amended, which is not before us.
>
> The bill, H.R. 8609, contains only one reference to section 416, but this provision deals only with the labeling of surplus foods, not with the system of distributing these commodities.
>
> This is an amendment which is entirely foreign to the legislation now under discussion and as presented is not germane to the bill.

In defense of the amendment, the proponent stated as follows:

> . . . H.R. 8609 is a bill to amend the Agricultural Trade Development and Assistance Act of 1954, as amended, extending certain authorities provided for in that law, and for other purposes. The Agricultural Trade Development

14. H.R. 8609 (Committee on Agriculture).

15. 105 CONG. REC. 16567, 16568, 86th Cong. 1st Sess., Aug. 20, 1959.

16. *Id.* at p. 16568.

and Assistance Act of 1954, as amended, known as Public Law 480, contains provisions not only for the foreign sale, barter and donation of surplus food but it also contains the relevant provisions of law authorizing domestic donations of surplus food to our own needy. This is contained in titles II and III of the law.

The bill before us amends titles II and III in several respects. The bill before us furthermore contains language clearly applicable to the domestic distribution of surplus foods. . . .

I make one further point in contesting the point of order. "Cannon's Precedents," volume VIII, section 2941, states:

> An act continuing and reenacting an existing law is subject to amendment modifying the provisions of the law carried in the act.

Mr. Chairman, we are enacting Public Law 480 programs. This amendment is germane in that it would modify the terms of Public Law 480 dealing with the distribution of surplus food to our own needy, establishing an additional and effective means of distributing such food to our needy.

The Chairman,[17] in holding the amendment to be germane and overruling the point of order, stated in part:

The bill presently before the Committee provides in two sections for amendments to title III, the general provisions title of Public Law 480. . . .

The language cited by the gentlewoman from Missouri of section 302 of the basic law, Public Law 480, is very much to the point, and the Chair will repeat it for the purpose of the Record:

> Sec. 302. Section 416 of the Agricultural Act of 1949 is amended to read as follows:
>
> Sec. 416. In order to prevent the waste of commodities acquired through price-support operations . . . the Commodity Credit Corporation is authorized, on such terms and under such regulations as the Secretary may deem in the public interest . . . to donate such commodities . . . to such State, Federal, or private agency or agencies as may be designated by the proper State or Federal authority . . . [for] the assistance of needy persons. . . .

17. Richard W. Bolling (Mo.).

School Milk Program

§ 39.18 To a bill extending the school milk program and establishing a school breakfast program, and making "preschool programs operated as part of the school system" eligible for benefits under the programs, an amendment further extending such benefits to programs operated by nonprofit institutions in depressed areas, was held to be not germane.

On Sept. 1, 1966,[18] the Committee of the Whole had under consideration the Child Nutrition Act of 1966,[19] which stated in part:[20]

18. 112 CONG. REC. 21652, 21656, 89th Cong. 2d Sess.

19. H.R. 13361 (Committee on Agriculture).

20. 112 CONG. REC. 21652, 21653, 89th Cong. 2d Sess.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Child Nutrition Act of 1966."

DECLARATION OF PURPOSE

Sec. 2. In recognition of the demonstrated relationship between food and good nutrition and the capacity of children to develop and learn . . . it is hereby declared to be the policy of Congress that these efforts shall be extended, expanded, and strengthened under the authority of the Secretary of Agriculture as a measure to safeguard the health and well-being of the Nation's children. . . .

SPECIAL MILK PROGRAM AUTHORIZATION

3. There is hereby authorized to be appropriated for the fiscal year ending June 30, 1967, not to exceed $110,000,000; for the fiscal year ending June 30, 1968, not to exceed $115,000,000; and for each of the two succeeding fiscal years not to exceed $120,000,000, to enable the Secretary of Agriculture, under such rules and regulations as he may deem in the public interest, to encourage consumption of fluid milk by children in the United States in (1) nonprofit schools of high school grade and under, and (2) nonprofit nursery schools, child-care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children. . . .

PRESCHOOL PROGRAMS

13. The Secretary may extend the benefits of all school feeding programs conducted and supervised by the Department of Agriculture to include preschool programs operated as part of the school system. . . .

An amendment was offered: (1)

The Clerk read as follows:

Amendment offered by Mr. [William F.] Ryan [of New York]: On page 39, line 22, insert after "system" the following: ", or operated by nonprofit institutions or organizations and draw attendance from areas in which poor economic conditions exist". . . .

MR. [HARLAN F.] HAGEN of California: . . . I make the point of order that this amendment is not germane to the section sought to be amended.

Mr. Chairman, the entire thrust of this bill deals with programs administered by the public schools of the United States.

Mr. Chairman, the gentleman from New York offers an amendment, which if adopted, would extend these programs en masse into operations by nonprofit institutions or organizations.

Mr. Chairman, it has nothing to do with the substance of this bill, which is to implement programs administered by the public schools. . . .

MR. RYAN: . . . [T]he amendment . . . is quite relevant to section 13 which it would amend.

Mr. Chairman, section 13 provides that the Secretary may extend the benefits of all school feeding programs conducted and supervised by the Department of Agriculture to include preschool programs operated as part of the school system.

My amendment would extend that to include preschool programs operated by nonprofit institutions or organizations which draw attendance from areas in which poor economic conditions exist.

---

1. *Id.* at p. 21656.

In other words, Mr. Chairman, this would deal with those children enrolled in those Headstart programs which are not a part of the local school system. . . .

I might also point out that other sections of the bill do cover nonprofit institutions. . . . This bill is clearly not restricted to school systems. . . .

THE CHAIRMAN:[2] In the opinion of the Chair, section 13 on page 39 is confined to school feeding programs including preschool programs as part of these school systems. Therefore, the Chair sustains the point of order.

Elementary and Secondary Education Act—Amendment To Restrict School Busing

§ 39.19 To a bill amending and extending the Elementary and Secondary Education Act, an amendment proposing further modification of that act to provide that no funds appropriated pursuant to the act be used for the transportation of students or teachers "in order to meet . . . provisions of" the Civil Rights Act of 1964 was held to be germane.

In the 91st Congress, during consideration of a bill[3] extending the Elementary and Secondary Education Act, an amendment was offered whose purpose was explained in these terms by the proponent:[4]

MR. [JAMES M.] COLLINS [of Texas]: . . . [This amendment] relates to neighborhood schools. It simply boils down to the fact that there will be no Federal funds available for busing of students. . . .

A point of order was raised against the amendment, as follows:

MR. [ALBERT H.] QUIE [of Minnesota]: Mr. Chairman, it appears to me that this is an amendment to title VI of the Civil Rights Act and its effect would be to amend title VI of the Civil Rights Act. Therefore, Mr. Chairman, it would not be germane to the bill under present consideration.

The Chairman,[5] in ruling on the point of order, stated:

The Chair has examined the amendment and the Chair finds that they appear to be amendments to the bill under consideration and do not appear to be specific amendments to the Civil Rights Act. Therefore, the Chair overrules the point of order.

Foreign Trade Agreements—Amendment Affecting Period Prior to Extension

§ 39.20 To an amendment modifying a bill extending the period during which the

2. Arnold Olsen (Mont.).

3. H.R. 514 (Committee on Education and Labor).

4. 115 CONG. REC. 10067, 91st Cong. 1st Sess., Apr. 23, 1969.

5. Charles M. Price (Ill.).

President is authorized to enter into foreign trade agreements under certain provisions of the Tariff Act of 1930, a substitute amendment which did not modify those provisions of the Tariff Act but which provided for suspension of trade agreement tariff concessions where imports injure domestic producers was held to be not germane, having retroactive application and not confined to the extension of the law.

On Feb. 7, 1951, during consideration of the Trade Agreements Extension Act of 1951,[6] the following proposition was being debated:[7]

> Amendment offered by Mr. [Carl T.] Curtis of Nebraska: Page 1, after line 9, insert the following:
>
> Sec. 3. The act entitled "An act to amend the Tariff Act of 1930," approved June 12, 1934, is hereby amended by adding after section 4 the following new subsection:
>
> "Sec. 5. (a) If as the result of unforeseen developments and of the effect of any obligation (including any tariff concession) incurred by the United States under a foreign trade agreement entered into under section 350 of the Tariff Act of 1930 any article is imported into the United States in such relatively increased quantities and under such conditions as to cause or threaten serious injury to the domestic industry in the United States of like or directly competitive products, the President shall suspend the obligation in whole or in part or withdraw or modify the concession. . . ."

An amendment was offered as follows:[8]

> MR. [CLEVELAND M.] BAILEY [of West Virginia]: Mr. Chairman, I offer a substitute amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Bailey as a substitute for the amendment offered by Mr. Curtis of Nebraska: Add a new section to be known as section 3, as follows:
>
> Sec. 3. (a) If in the course of a trade agreement entered into by the United States under the provisions of section 350 of the Tariff Act of 1930 . . . any product on which a concession has been granted is being imported into the territory of one of the contracting parties . . . under such conditions as to cause or threaten serious injury to domestic producers in that territory of like or directly competitive products, the contracting parties shall be free, in respect of such product . . . to suspend . . . or modify the concession. . . .
>
> (b) Upon the request of the President, upon its own motion, or upon application of any interested party the United States Tariff Commission shall make an investigation to determine whether [an] article . . . is being imported . . . under such conditions as to cause or threaten serious injury to a domestic industry. . . .
>
> Should the Tariff Commission find . . . that serious injury is being

6. H.R. 1612 (Committee on Ways and Means).

7. See 97 CONG. REC. 1070, 82d Cong. 1st Sess.

8. *Id.* at p. 1073.

caused or threatened through the importation of the article in question, it shall recommend to the President the witdrawal or modification of the concession. . . .

In arriving at a determination in the foregoing procedure the Tariff Commission shall deem a downward trend of production, employment, and wages in the domestic industry concerned, or a decline in sales and a higher or growing inventory attributable in part to import competition, to be evidence of serious injury or a threat thereof.

A point of order was raised against the amendment, as follows:

MR. [WILBUR D.] MILLS [of Arkansas]: Mr. Chairman, I make the point of order against the amendment on the ground that it is not germane to the bill before the House, H.R. 1612. The amendment is retroactive in its effect as well as prospective. The bill before the House has to do with an extension of the President's authority to enter into trade agreement negotiations for a period in the future.

The Chairman,[9] in ruling on the point of order, stated:[10]

Of course, the distinction between the substitute amendment and the amendment offered by the gentleman from Nebraska [Mr. Curtis] is that the amendment offered by the gentleman from Nebraska is to section 350 of the Tariff Act. The substitute offered by the gentleman from West Virginia is in effect an amendment to the bill before us now, H.R. 1612. The Chair would like to point out to the gentleman that casual examination of his amendment discloses that the effect is, among other things, retroactive, and the point of order is sustained.

9. Francis E. Walter (Pa.).

10. 97 CONG. REC. 1074, 82d Cong. 1st Sess., Feb. 7, 1951.

§ 39.21 To a bill providing merely that the period during which the President is authorized to enter into foreign trade agreements under section 350 of the Tariff Act of 1930 is extended for a further period of three years, an amendment directing the President to prevent the application of reduced tariffs or other concessions heretofore or hereafter entered to imports from Communist nations was held to be not germane.

In the 82d Congress, a bill[11] was under consideration which provided that the period during which the President was authorized to enter into foreign trade agreements under the Tariff Act of 1930 be extended for a further period of three years. The following amendment was offered:[12]

Amendment offered by Mr. Byrnes of Wisconsin: After line 9, insert a new section, as follows:

11. H.R. 1612 (Committee on Ways and Means).

12. 97 CONG. REC. 1037, 82d Cong. 1st Sess., Feb. 7, 1951.

> Sec. 3. As soon as practicable, but not more than 90 days after enactment of this act, the President shall take such action as is necessary to withdraw or prevent the application of reduced tariffs or other concessions . . . contained in any trade agreement heretofore or hereafter entered into under authority of section 350 of the Tariff Act of 1930 . . . to imports from the Union of Soviet Socialist Republics and to imports from any nation or area thereof which the President deems to be dominated . . . by the foreign government or foreign organization controlling the world Communist movement.

A point of order was raised against the amendment, as follows:

> MR. [WILBUR D.] MILLS [of Arkansas]: Mr. Chairman, I make a point of order against the amendment. . . . The purpose of the bill before us, and the sole purpose, is to extend the authority of the President to negotiate reciprocal trade agreements. The gentleman's amendment goes far beyond that purpose. . . .

In defense of the amendment, the proponent stated as follows:

> MR. [JOHN W.] BYRNES [of Wisconsin]: . . . One of the purposes of the bill before us certainly, and its major purpose is to extend the authority of the President under the Trade Agreements Act. However, in keeping with that purpose and objective, the Congress has the authority and right to either limit or extend the trade agreements authority of the President. This amendment is directed to that objective. . . I think it is certainly germane to either restrict or extend the authority of the President under the act. This amendment goes to the scope of the authority granted to the President.

Mr. Joseph W. Martin, Jr., of Massachusetts, also speaking with reference to the point of order, stated: (13)

> . . . The question here today is the extension of the Reciprocal Trade Agreements Act. Congress in extending that authority is well within its own rights to adopt restrictions in its grants. . . .
>
> Mr. Chairman, I submit that the amendment is in order. If Congress wants to bar Communist countries from special privileges given to our friendly neighbors it should have that right. We must not forget that to Congress was given the authority to regulate tariffs and it should of course be able to restrict that grant if it so desires.

The Chairman,(14) in sustaining the point of order, stated:

> The amendment offered by the gentleman from Wisconsin seeks to add language to the bill providing, among other things, "that as soon as practicable, but not more than 90 days after the enactment of this act, the President shall take such action as is necessary to withdraw or prevent the application of reduced tariffs, or other concessions contained in any trade agreement heretofore or hereafter entered into under the authority," and so on.

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13. *Id.* at p. 1038.

14. Francis E. Walter (Pa.).

The bill before the committee at this time provides merely that the period during which the President is authorized to enter into foreign trade agreements under section 350 of the Tariff Act of 1930, as amended and extended, is hereby extended for a further period of 3 years, from June 12, 1951.

The Chair rules that the amendment offered by the gentleman from Wisconsin is not germane to the bill under consideration and therefore sustains the point of order.

Transportation of Petroleum Products—Amendment Repealing Other Law

§ 39.22 To a bill extending certain provisions of law relating to the transportation of petroleum products in the United States, an amendment proposing to repeal all tariffs on crude oil and its products in order to conserve domestic oil deposits by promoting importation on oil and oil products was held to be not germane.

In the 75th Congress, a bill[15] was under consideration extending certain provisions of that act entitled, "An act to regulate interstate and foreign commerce in petroleum and its products by prohibiting the shipment in such commerce of petroleum and its products produced in violation of State law. . . "[16] The following amendment was offered:[17]

Amendment by Mr. [Frederick E.] Biermann [of Iowa]: After section 12 of Public, No. 14, Seventy-fourth Congress, insert the following new section:

Sec. 13. In order to further conserve deposits of crude oil situated in the United States, all tariffs on crude oil and all of its products are hereby repealed.

Mr. William P. Cole, Jr., of Maryland, made a point of order against the amendment. The Chairman[18] ruled as follows:

The amendment . . . seeks to deal with matters not only not germane to this bill but over which this Committee has no jurisdiction.

The Chair sustains the point of order.

—Amendment Adding New Section to Law and Broadening Application

§ 39.23 To a bill extending certain provisions of law relating to the transportation of petroleum products in the United States, amending only one section of such law, an amendment was held to be not germane which sought to add a new section to such

15. H.R. 5366 (Committee on Interstate and Foreign Commerce).

16. See 81 CONG. REC. 5329, 75th Cong. 1st Sess., June 3, 1937.

17. *Id.* at p. 5330.

18. Clifton A. Woodrum (Va.).

law and to prohibit marketing crude oil products if engaged in production, refining, or transportation of oil.

In the 75th Congress, a bill [19] was under consideration extending certain provisions of that act entitled, 'An act to regulate interstate and foreign commerce in petroleum and its products by prohibiting the shipment in such commerce of petroleum and its products produced in violation of State law. . . ." [20] The following amendment was offered: [1]

> Amendment offered by Mr. Biermann: At the end of the bill insert a new section as follows:
>
> Sec. 14. It shall be unlawful for any person or corporation or affiliate thereof to engage, directly or indirectly in interstate commerce, in marketing crude oil or any of the products thereof if he is engaged in production, refining, and transportation of oil or in any of these activities.

Mr. William P. Cole, Jr., of Maryland, having made a point of order against the amendment, Mr. Frederick E. Biermann, of Iowa, responded:

> . . . The bill in its present form, dealing with the production, refining, and distribution of oil, makes me believe that an amendment dealing with the last operation, marketing, is germane also.

The Chairman,[2] in ruling on the point of order, stated:

> The bill under consideration amends only one section of existing law in one particular. The amendment of the gentleman adds a new section to existing law, and is, therefore, clearly not germane.

Mutual Security Act—Modification of Statement of Policy in Act Being Extended

§ 39.24 To a bill reenacting and amending the Mutual Security Act of 1954, an amendment was held to be germane which sought to modify a statement of congressional policy contained in the act by further stating it to be the sense of Congress that the President should seek modification of certain agreements to enable the United States to exercise exclusive jurisdiction over American military personnel stationed within the boundaries of nations party to the agreements.

In the 85th Congress, during consideration of a bill [3] to amend the Mutual Security Act of 1954,

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19. H.R. 5366 (Committee on Interstate and Foreign Commerce).

20. See 81 CONG. REC. 5329, 75th Cong. 1st Sess., June 3, 1937.

1. *Id.* at p. 5330.

2. Clifton A. Woodrum (Va.).

3. S. 2130 (Committee on Foreign Affairs).

the following amendment was offered: (4)

> Amendment offered by Mr. [Omar T.] Burleson [of Texas]: On page 1, after line 4, insert: "Section 2 of the Mutual Security Act of 1954, as amended, which expresses a statement of policy, is amended by the addition of the following paragraph at the end of the statement:
>
> > "(d) It is the sense of the Congress that . . . the President should forthwith address to the North Atlantic Council . . . a request for revision of article VII of such agreement for the purpose of eliminating or modifying article VII so that the United States may exercise exclusive criminal jurisdiction over American military personnel stationed within the boundaries of parties to the treaty. . . ."
>
> MR. [ALBERT S.J.] CARNAHAN [of Missouri]: Mr. Chairman, I make a point of order against the amendment, that it is not germane to the bill.
>
> Mr. Chairman, I shall reserve the point of order. . . .
>
> THE CHAIRMAN: (5) The point of order has been reserved and the gentleman from Texas [Mr. Burleson] is recognized on his amendment.

Subsequently, the following remarks were made in support of the point of order: (6)

> MR. CARNAHAN: . . . This legislation does not provide for the conduct, management, or regulation of American forces abroad.
>
> Consequently, the amendment is not germane. . . .
>
> MR. VORYS: Mr. Chairman, on page 407 of the Rules of the House of Representatives on the matter of germaneness appears the statement that to a bill modifying an existing law as to one specific particular an amendment relating to the terms of the law other than those dealt with by the bill is not germane. . . .
>
> Mr. Chairman, this amendment attempts to amend the purpose clause of the mutual security law, which is a part of the bill which is not amended by the amendments contained in the bill, S. 2130, which is now before the House. In addition, this amendment purports to deal with treaties which under the Constitution, are the responsibility of the President and the Senate and with which the House does not deal. . . . In addition, the amendment, if carried out, would amend the Uniform Code of Military Justice. Article 14 of the code provides that under such regulations as the Secretary concerned may prescribe, a member of the Armed Forces accused of an offense against civil authority may be delivered upon request to the civil authority for trial. . . .

The Chairman, in ruling on the point of order, stated: (7)

> Attention is . . . invited to the fact that the amendment does not seek to amend the treaty-making powers, it does not seek to amend the Code of Military Justice. . . .
>
> After analysis of the pending amendment and the bill and the reference

4. 103 CONG. REC. 12007, 12008, 85th Cong. 1st Sess., July 17, 1957.

5. Jere Cooper (Tenn.).

6. 103 CONG. REC. 12008, 12009, 85th Cong. 1st Sess., July 17, 1957.

7. *Id.* at p. 12010.

made to the Mutual Security Act of 1954, as amended, the Chair is of the opinion that the amendment is an additional expression of the sense of Congress in line with the expressions of the sense of Congress contained in the Mutual Security Act of 1954, it is germane to the pending bill, and, therefore, overrules the point of order.

Loan of Aircraft Carrier to France—Limitation on Extension of Authority

§ 39.25 To a bill extending existing authority for the loan of a small aircraft carrier to France, an amendment requiring in part that such carrier be immediately returned to the United States if used for the transportation of troops or supplies to or from any French colony was held to be germane as a limitation on the extension of authority.

In the 84th Congress, a bill[8] as described above was being considered under Consent Calendar procedures. An amendment was offered[9] which provided that, "such carrier shall be immediately returned to the Government of the United States if it is used at any time for the transportation of troops, supplies, or material to or from any French colony, or if it is used at any time in support of any of the activities of the French Armed Forces in any French colony." Mr. John W. McCormack, of Massachusetts, having made the point of order that the amendment was not germane to the bill, Speaker Sam Rayburn, of Texas, stated:

> The Chair must say that the Chair thinks that is a proper limitation to put upon the bill and therefore overrules the point of order.

Veterans' Loans—Tax Treatment of Veterans' Loans

§ 39.26 To a bill continuing for one year the provisions of a law authorizing home and farmhouse loans to veterans, an amendment providing that interest on certain guaranteed veterans' loans should, for income tax purposes, be excluded from income was held not germane.

In the 83d Congress, during consideration of the Veterans' Home and Farmhouse Loan Extension,[10] the following amendment was offered:[11]

> Amendment offered by Mr. Multer: On page 2, after line 8, insert a new

8. S. 1139 (Committee on Armed Services).

9. 101 CONG. REC. 10729, 84th Cong. 1st Sess., July 18, 1955.

10. H.R. 8152 (Committee on Veterans' Affairs).

11. 100 CONG. REC. 3799, 83d Cong. 2d Sess., Mar. 24, 1954.

section appropriately numbered to read:

> Interest on veterans' loans: Interest upon any loan which bears interest at a rate of not exceeding 3½ percent per annum, and any part of which is guaranteed under title III of the Servicemen's Retirement Act of 1944 as amended, shall not be included in gross income for income tax purposes and shall be exempted therefrom.

A point of order was raised against the amendment, as follows:

> MR. [WILLIAM H.] AYRES [of Ohio]: Mr. Chairman, I make a point of order that the gentleman's amendment cannot be considered on a bill involving direct home and farmhouse loan authority, that the amendment would have to be considered by the appropriate committee of the House. It is not germane to this bill.

In defense of the amendment, the proponent stated as follows:

> MR. [ABRAHAM J.] MULTER [of New York]: Mr. Chairman, the bill now being considered is entitled "to extend to June 30, 1955, the direct home and farmhouse loan authority of the Administrator of Veterans' Affairs under title III of the Servicemen's Readjustment Act of 1944, as amended, to make additional funds available therefor, and for other purposes."
>
> . . . [My amendment] will make more funds available to the program, it will extend the program to more veterans who can then acquire the benefits thereof by the simple expedient of making this low interest rate tax exempt.

The Chairman,[12] in ruling on the point of order, stated:

> The amendment offered by the gentleman from New York is too broad. It deals with a problem which comes within the jurisdiction of the Committee on Ways and Means and goes entirely outside of the purposes of this bill. The Committee on Veterans' Affairs does not have jurisdiction over gross income for income tax purposes. For the reasons stated, the Chair is constrained to sustain the point of order.

Authority of Administrator of Veterans' Affairs

§ 39.27 To a bill extending the authority of the Administrator of Veterans' Affairs to establish a maximum interest rate for insured loans to veterans, an amendment materially altering provisions of existing law and modifying the authority of the Administrator with respect to management of the loan program was held to be not germane.

On Sept. 29, 1969, a bill[13] extending the authority of the Administrator of Veterans' Affairs to set interest.[14]

> Strike out all that follows the enacting clause and insert in lieu thereof the following:

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12. Antoni N. Sadlak (Conn.).

13. H.R. 13369 (Committee on Veterans' Affairs).

14. See 115 CONG. REC. 27341, 91st Cong. 1st Sess.

That notwithstanding the provisions of section 1803(c)(1) of title 38, United States Code, the Administrator of Veterans' Affairs is authorized, until October 1, 1971, to establish a maximum interest rate for guaranteed or insured loans to veterans under chapter 37 of title 38, United States Code, not in excess of such rate as he may from time to time find the loan market demands.

Thereafter, the following amendment was offered:[15]

Amendment offered by Mr. Patman to the committee amendment: On page 2, line 9, immediately after the period, insert the following:

. . . (C)hapter 37 is further amended by adding at the end of subchapter III thereof the following new section:

"1828. Investment of funds of the national service life insurance fund in first mortgage loans guaranteed under section 1810 of this chapter.

"(a) When issuing a commitment to guarantee a proposed home mortgage loan under section 1810 of this chapter, the Administrator is authorized and is hereby directed to issue, if such is requested by the lender-mortgagee, a non-assignable commitment to purchase the completed loan from such lender-mortgagee. . . .

"(b) There is hereby established in the Treasury of the United States a revolving fund to be known as the National Service Life Insurance Investment Fund. . . . The . . . Fund shall be available to the Administrator for all operations under this section. . . . To provide the Administrator with the funds necessary to purchase loans as the consequence of commitments issued . . . pursuant to subsection (a) of this section, the Secretary of the Treasury shall transfer such funds from the National Service Life Insurance Fund . . . to the Investment Fund. . . ."

A point of order was raised against the amendment, as follows:

MR. [WILLIAM H.] AYRES [of Ohio]: . . . The amendment offered by the gentleman is a whole new scheme to take funds from the national service life insurance trust fund and make them available for housing loans. I submit, Mr. Chairman, that this is a subject alien to the central purpose of H.R. 13369, and I insist upon my point of order that the amendment of the gentleman is not germane to the bill.

In defense of the amendment, the proponent stated as follows:

MR. [WRIGHT] PATMAN [of Texas]: . . . Mr. Chairman, the plainly expressed legal purpose and effect of the committee amendment is to extend and enlarge the authority of the Administrator of Veterans' Affairs to carry on programs of guaranteed and insured loans to veterans under chapter 37 of title 38 of the United States Code. The committee amendment expressly refers to chapter 37, and directly affects the powers of the Administrator under that chapter. It enlarges those powers by giving the Administrator authority over interest rates—authority he would not otherwise possess under chapter 37. My amendment relates directly to this interest rate authority by giving the Administrator further power to control or influence the rates on chapter 37 loans. . . .

The Chairman,[16] in ruling on the point of order, stated:

15. *Id.* at pp. 27342, 27343.

16. Charles E. Bennett (Fla.).

The proposition before the Committee has a narrow purpose: To grant the Administrator of Veterans' Affairs authority, for a 2-year period, to establish a maximum interest rate for guaranteed or insured veterans loans. . . .

. . . [T]he precedents indicate that where a bill is drafted to achieve a purpose by one method, an amendment to accomplish a similar purpose by an unrelated method, not contemplated by the bill, is not germane. . . .

The committee amendment under consideration extends only the authority of the Administrator. It does not "extend existing law" in the sense that it reenacts it and could possibly open up the basic law to modification. The Chair therefore holds that the amendment offered by the gentleman from Texas [Mr. Patman] which materially alters the provisions of chapter 37 of title 38, United States Code, is not germane to the limited proposition under consideration. The Chair therefore sustains the point of order.

In response to points raised by Mr. Patman, the Chairman also stated:

. . . [T]he provisions of this piece of legislation only relate to the interest rates and not to title 38, United States Code, chapter 37, as a whole.

Bill Extending Federal Energy Administration—Amendment Abolishing Agency and Transferring Functions

§ 39.28 A bill continuing and reenacting an existing law may be amended by a proposition modifying in a germane manner the provisions of the law being extended; thus, to a bill reenacting a law to extend the existence of the Federal Energy Administration (which agency under that law would otherwise terminate with a consequent transfer of its functions to other agencies), an amendment in the nature of a substitute abolishing the agency and some of its functions and transferring other functions to existing agencies was held germane as another reorganization proposal closely related to that contained in the law being amended.

On June 1, 1976,[17] the Committee of the Whole had under consideration a bill (H.R. 12169) reenacting a law, to extend the existence of the Federal Energy Administration. That law provided, in the absence of such extension, for termination of the agency and a consequent transfer of its functions to other agencies. An amendment in the nature of a substitute was offered which itself provided for termination of the agency and the transfer of certain of its functions to other agencies—

17. 122 CONG. REC. 16021–25, 94th Cong. 2d Sess.

matters deemed to be within the jurisdiction of committees other than that which reported the bill:

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mrs. Schroeder:

Strike out all after the enacting clause and insert in lieu thereof the following:

That the Federal Energy Administration is abolished.

ABOLITION OF FUNCTIONS

Sec. 2. The functions of the following offices of the Federal Energy Administration shall be abolished: the functions of the Office of Management and Administration (other than the Office of Private Grievances and Redress); the functions of the Office of Intergovernmental, Regional, and Special Programs; the functions of the Office of Congressional Affairs. . .

Sec. 3. (a) The functions of the following offices of the Federal Energy Administration shall be transferred to other agencies as directed in this section:

The functions of the Offices of Energy Policy and Analysis, Energy Conservation and Environment, and International Energy Affairs shall be transferred to the Energy Research and Development Administration.

(2) The functions of the Office of Energy Resource Development (including the Office of Strategic Petroleum Reserve) shall be transferred to the Department of the Interior.

(3) The functions of the Office Regulatory Programs (including the Office of Private Grievances and Redress) shall be transferred to the Federal Power Commission. . . .

Mr. John D. Dingell, of Michigan, made a point of order against the amendment:

MR. DINGELL: Mr. Chairman, the rules of the House require that the amendment be germane to the bill which is before the House both as to the place in the bill to which the germaneness question arises and the amendment is offered, and also as to the bill as a whole.

The first grounds for the point of order are that the amendment goes beyond the requirements of the place in the bill to which the amendment is offered; the second is that it fails to meet the test of germaneness in several particulars. First, that it is a matter which would have been referred to a diversity of committees other than the committee which presently has the responsibility therefor. . . .

Mr. Chairman, I would point out that there are several tests of germaneness, the first being the test of committee jurisdiction. Obviously, none of the matters referred to in the amendment are properly within the jurisdiction of the Committee on Interstate and Foreign Commerce.

The second test is that they must be pertinent to the matters before the House. It is clearly obvious that such broad transfer of responsibilities to diverse agencies and also the imposition of responsibilities on the director of the Office of Management and Budget, are far beyond the jurisdiction of the Committee on Interstate and Foreign Commerce, and that the responsibility for the establishing of a savings clause with respect to litigation is not within the jurisdiction of that committee.

Another test of germaneness is the fact that the amendment should give notice to the Members as to what they could reasonably anticipate in the

sense of amendments which might be presented to them. . . .

Lastly, to meet the test of germaneness, it is required that the subject matter relate to the subject matter of the bill, and the amendment which is before us clearly seeks to transfer these responsibilities broadly throughout the Federal Government; the establishment of savings clauses and the oversight responsibilities which are imposed go far beyond the requirements of the rules of the House. So that for all of these reasons I respectfully insist upon my point of order. . . .

MRS. [PATRICIA] SCHROEDER [of Colorado]: . . . Committee jurisdiction over the subject of an amendment and the original bill is not the exclusive test of germaneness—August 2, 1973.

The bill H.R. 12169 incorporates by reference the entire Federal Energy Administration Act of 1974, a bill which was reported by the House Government Operations Committee. It does so by, in essence, reenacting the entire act.

Amendments to the entire act are in order and therefore the substitute, which, if outside of Interstate and Foreign Commerce Committee jurisdiction, strays no farther than into Government Operations Committee jurisdiction, is undeniably germane. And the germaneness of an amendment in the nature of a substitute is its relationship to the bill as a whole, and is not necessarily determined by the content of an incidental portion of the amendment which, if considered separately might be within the jurisdiction of another committee—August 2, 1973. Furthermore, to a bill continuing and reenacting an existing law an amendment germane to the existing act sought to be continued was held to be germane to the pending bill—VIII, 2940, 2941, 2950, 3028; October 31, 1963. To a bill extending an existing law in modified form, an amendment proposing further modifications of that law may be germane—April 23, 1969; February 19, 1975.

The fundamental purpose of an amendment must be germane to the fundamental purpose of the bill—VIII, 2911—the purposes of both H.R. 12169 and the substitute are to continue the functions of the Federal Energy Administration. The differences are simply: First, to what extent the functions will be continued; and second, what bodies of Government will be responsible for continuing the functions.

MR. [CLARENCE J.] BROWN of Ohio: Mr. Chairman, the rules of the House under rule X(i)(3) give the Committee on Government Operations jurisdiction over the reorganizations in the executive branch of the Government. The bill we have before us is an Interstate and Foreign Commerce bill. Therefore, the Schroeder amendment is nongermane because it involves matter not before the Committee on Interstate and Foreign Commerce.

The title of the bill before us both as it was originally drawn and as it is amended, does only two things, and as amended, it reads:

> To amend the Energy Policy and Conservation Act to authorize appropriations for fiscal year 1977 to carry out the functions of the Federal Agency Administration, and for other purposes.

The other purposes are not accomplished in the legislation or the language of the bill. Therefore, the bill be-

fore the House is a bill to authorize funds for and extend the life of the Federal Energy Administration. As such it merely extends with some modification the authorities of the FEA.

The Schroeder amendment on the other hand would completely terminate those functions, and transfer them to many other Government agencies, a matter within the jurisdiction of the Government Operations Committee and not a matter within the jurisdiction of the bill. Therefore, it necessarily involves reorganization of the executive branch functions and as such is within the jurisdiction of the Committee on Government Operations. . . .

Again in 28, section 6.2 of Deschler's Precedents, it says:

> To a bill drafted to achieve a purpose by one method, an amendment to accomplish a similar purpose by an unrelated method, not contemplated by the bill, is not germane.

In other words, the effort to abolish and reorganize would not be germane to a bill to merely authorize and modify certain functions within the jurisdiction of the committee dealing with the bill on the floor. . . .

MR. [FLOYD J.] FITHIAN [of Indiana]: . . . The main point, Mr. Chairman, is this: Are we or are we not in the Schroeder substitute attempting to arrive at the disposition of this matter by carrying out the functions of FEA in this authorization to appropriate and carry out these functions by other means? Now, clearly, this is brought out in rule XVI, section 789b, page 514 of the Rules of the House of Representatives:

> . . . Thus to a proposition to accomplish a result through regulation by a governmental agency, an amendment to accomplish the same fundamental purpose through regulation by another governmental agency [was held germane].

THE CHAIRMAN:[18] The Chair is ready to rule.

Several days ago the gentlewoman from Colorado (Ms. Schroeder) placed her amendment in the Record. The attention of the Chair was called to the amendment at that time.

Generally speaking, as far as germaneness is concerned, since the committee proposal before the Committee at this time extends the term of the original act, amendments that would be considered as germane to the original act being reenacted would be considered as germane at this time.

This principle, in part, was the basis of the decision in Cannon's Precedents, volume VIII, section 2941, that a bill continuing and reenacting the present law is subject to an amendment modifying the provisions of the law carried in that bill.

The gentleman from Michigan (Mr. Dingell) makes the point of order that the amendment in the nature of a substitute offered by the gentlewoman from Colorado (Ms. Schroeder) is not germane to the committee amendment in the nature of a substitute for H.R. 12169.

The committee amendment extends the term of the Federal Energy Administration Act until September 30, 1979, and provides specific authorizations for appropriations for that agency through fiscal year 1977.

The amendment in the nature of a substitute would abolish the Federal

18. William H. Natcher (Ky.).

Energy Administration and some of its functions, and would transfer other functions currently performed by the agency to other Departments and agencies in the executive branch, and would authorize appropriations for the next fiscal year for the performance of those functions transferred by the amendment.

The Chair has had an opportunity to examine the committee bill, the law—public law 93–275—being continued and reenacted by the bill, and the amendment in the nature of a substitute against which the point of order has been raised. While it is true that the basic law which created the Federal Energy Administration was reported as a reorganization proposal from the Committee on Government Operations in the last Congress, and while it is also true that a bill containing the substance of the amendment has been jointly referred to that committee and to the Committee on Interstate and Foreign Commerce in this Congress, the Chair would point out that committee jurisdiction is not the sole or exclusive test of germaneness.

The Chair would call the attention of the Committee to extensive precedent contained in Cannon's volume VIII, section 2941, which the Chair has already cited, where an amendment germane to an existing law was held germane to a bill proposing its reenactment. The Chair feels that this precedent is especially pertinent in the limited context where, as here, the pending bill proposes to extend the existence of an organizational entity which would otherwise be terminated by failure to reenact the law.

In such a situation, the proper test of germaneness is the relationship between the basic law being reenacted and the amendment, and not merely the relationship between the pending bill and the amendment.

It is important to note that the law being extended was itself an extensive reorganization of various executive branch energy-related functions. Not only did Public Law 93–275 transfer several functions from the Interior Department and the Cost of Living Council to the FEA, but that law also authorized the Administrator of FEA to perform all functions subsequently delegated to him by Congress or by the President pursuant to other law. Section 28 of that law provides that upon its termination, which would result if the pending bill is not enacted, all functions exercised by FEA would revert to the department or agency from which they were originally transferred.

It appears to the Chair, from an examination of the committee report, that all of the functions which the amendment in the nature of a substitute proposes to abolish or to transfer are being extended and authorized by the committee bill.

Since the basic law which created the FEA is before the committee for germane modification, since changes in that law relating to the delegation of authority to perform functions from or to the FEA are germane to that law, and since the pending committee bill authorizes the FEA to perform all of the functions which the amendment in the nature of a substitute would abolish or transfer, the Chair holds that the amendment is germane to the committee proposal and overrules the point of order.

—*Amendment Providing Reorganization Plan Offered as Substitute for Amendment Establishing Termination Date for Agency*

§ 39.29 For an amendment establishing a termination date for the Federal Energy Administration, a substitute not dealing with the date of termination but providing instead a reorganization plan for that agency was held to be not germane.

During consideration of H.R. 12169 in the Committee of the Whole on June 1, 1976,[19] the Chair sustained a point of order against a substitute for the following amendment:

MR. [FLOYD J.] FITHIAN [of Indiana]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Fithian: Page 10, line 4, strike out "September 30, 1979" and insert in lieu thereof "December 31, 1977". . . .

MR. [GARY] MYERS of Pennsylvania: Mr. Chairman, I offer an amendment as a substitute for the amendment offered by the gentleman from Indiana (Mr. Fithian). . . .

The Clerk read as follows:

Amendment offered by Mr. Myers of Pennsylvania as a substitute for the amendment offered by Mr. Fithian: On page 10, after line 4, add the following:

Sec. 3. Section 28 of the Federal Energy Administration Act of 1974 is amended by inserting the following, in lieu thereof,

"'Notwithstanding section 527 of the Energy Policy and Conservation Act, upon termination of this Act, as provided for in Section 30 of this Act, all functions of the Federal Energy Administration shall be transferred to existing departments, agencies or offices of the Federal Government, or their successors. The President, through the Director of the Office of Management and Budget, shall file, 12 months before the termination of this Act, a plan and program with the Speaker of the House of Representatives and the President of the Senate, to provide for the orderly transfer of the functions of the Federal Energy Administration to such departments, agencies or offices. Within 90 days after the submission of this plan and program, either House of Congress may pass a resolution disapproving such plan and program.'". . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, my point of order is in several parts: The first, Mr. Chairman, is that the amendment must be germane to the Fithian amendment. I make the point that it is not.

Mr. Chairman, the Fithian amendment, if the Chair will note, simply relates to the termination of the existence of the FEA as an agency and sets a date for the expiration thereof.

This amendment goes much further, and if the Chair will consult the amendment, the Chair will find that it relates to the compensation of executives, that it relates and fixes the levels at which executives' salaries and compensation will be held. It deals

19. 122 CONG. REC. 16051–56, 94th Cong. 2d Sess.

with the administration being able to employ and fix the compensation of officers and employees and it limits the number of positions which may be at different GS levels.

It goes much further. It deals with section 527 of the Energy Policy and Conservation Act, which is not referred to in the Fithian amendment and, indeed, which is not referred to elsewhere in the bill.

Mr. Chairman, it deals with the fixing of the compensation of Federal employees. It deals with the powers of the President, the duties and powers of the Director of the Office of Management and Budget functioning through and under the President. It deals with the filing of the plans for the termination of the act with the Speaker of the House of Representatives and it provides a plan to deal with the orderly transfer of functions to the Federal Energy Administration to such Departments and so forth.

It goes further and effectively amends the Reorganization Act by providing that the plan may be approved or disapproved by either House of Congress in a fashion in conformity with the requirements of the Reorganization Act.

This is a sweeping and very different amendment than that which is before the House in the Fithian amendment.

Now, Mr. Chairman, there is a second ground on which the point of order lies and that is that the amendment to the amendment in the nature of a substitute is not even germane to the bill. It is my strong suggestion, Mr. Chairman, that the quick way to dispose of this matter is by disposal of the point of order. . . .

MR. MYERS of Pennsylvania: Mr. Chairman, I am sure the subcommittee chairman did not mean to mislead the Chairman on the point of order. The subcommittee chairman has read in toto all the amendments I read this afternoon, including the GS and ES schedules, which are not included in this amendment.

This amendment simply deals with the termination of the FEA after 15 months. The only difference between my amendment and the amendment of the gentleman from Indiana (Mr. Fithian) would be that it does indicate that the President should through OMB present to the Congress a plan, which the gentleman from Texas would not yield sufficient time during the previous amendment for me to present even the issues in this respect.

Mr. Chairman, I present that as my case on the point of order, that it simply amends the termination of the act.

THE CHAIRMAN:[20] The Chair is ready to rule.

The amendment offered by the gentleman from Indiana (Mr. Fithian) goes solely to the question of the date of termination of the FEA. The substitute amendment offered by the gentleman from Pennsylvania, now before the Committee, goes beyond that issue to the question of reorganization of that agency. Therefore, it is not germane as a substitute. The point of order would have to be sustained; but the gentleman's amendment might be in order following the Fithian amendment as a separate amendment to the Committee proposal.

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20. William H. Natcher (Ky.).

—Amendment Limiting Discretionary Authority Conferred in Law

§ 39.30 A bill continuing and reenacting an existing law may be amended by a proposition modifying in a germane manner the provisions of the law being extended; thus, to a bill reenacting a law to extend the existence of the Federal Energy Administration, including the authority under a section of that law for the Administrator to conduct energy programs delegated to him, an amendment to that section of the law restricting the method of submitting energy action proposals to Congress was held germane to the law being extended as a limitation on discretionary authority conferred in that law, and therefore germane to the bill.

On June 1, 1976,[1] during consideration of H.R. 12169, it was held that to a bill extending the Federal Energy Administration Act, including the Administrator's authority under that Act to conduct energy programs delegated to him, an amendment seeking to restrict the manner in which the Administrator was to submit energy action proposals to Congress was germane to the law being extended as a limitation on discretionary authority conferred in that law, and therefore germane to the bill:

> The Clerk read as follows:
>
> Amendment offered by Mr. Eckhardt: Page 10, after line 4, insert the following:
>
> LIMITATION ON DISCRETION OF THE ADMINISTRATOR WITH RESPECT TO SUBMISSION OF ENERGY ACTIONS
>
> Sec. 3. Section 5 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following:
>
> "(c) The Administrator shall not exercise the discretion delegated to him pursuant to section 5(b) of the Emergency Petroleum Allocation Act of 1973 to submit to the Congress as one energy action any amendment under section 12 of the Emergency Petroleum Allocation Act of 1973 which exempts crude oil or any refined petroleum product or refined product category from both the allocation provisions and the pricing provisions of the regulation under section 4 of such Act". . . .

MR. [CLARENCE J.] BROWN of Ohio: Mr. Chairman, I think at least two, and perhaps more, basic principles of germaneness make the Eckhardt amendment nongermane. The first one is this:

> The fundamental purpose of an amendment must be germane to the fundamental purpose of the bill (Cannon's Precedents, page 199).

Mr. Chairman, the Dingell bill's fundamental purpose is to authorize ap-

1. 122 CONG. REC. 16045, 16046, 94th Cong. 2d Sess.

propriations to the Federal Energy Administration Act of 1974—section 1—and to extend the life of that Agency—section 2. These are the only two sections of the bill and the only fundamental purpose of the bill.

Mr. Chairman, a bill amending several sections of an act does not necessarily bring the entire act under consideration so as to permit amendment to any portion of the act sought to be amended by the bill—Cannon's Precedents, page 201.

The Dingell bill amends only two sections of the Federal Energy Administration Act, section 29, dealing with the authorization of appropriations, and section 30, dealing with the termination date of the act. The Eckhardt amendment does not apply to either one of these sections.

Mr. Chairman, I would also like to cite from Deschler's Procedure 28, section 5.10 and section 5.11, as follows:

> An amendment repealing sections of existing law is not germane to a bill citing but not amending another section of that law, where the fundamental purposes of the bill and amendment are not related.

Then I cite section 5.11, Mr. Chairman, which says the following:

> To a section of a committee amendment in the nature of a substitute having as its fundamental purpose the funding of urban highway transportation systems, an amendment broadening that section to include rail transportation within its ambit is not germane. . . .

. . . [T]he amendment is, in effect, a modification of the Energy Petroleum Allocation Act, as amended by the Federal Energy Policy and Conservation Act, rather than an amendment of the Federal Energy Administration Act, the only legislation touched by H.R. 12169. . . .

This is an amendment which directly modifies the provisions of section 12 of EPAA—added by EPCA—which provides in subsection (c)(1):

> Any such amendment which, with respect to a class of persons or class of transactions (including transactions with respect to any market level), exempts crude oil, residual fuel oil, or any refined petroleum product or refined product category from the provisions of the regulation under section 4(a) as such provisions pertain to either (A) the allocation of amounts of any such oil or product, or (B) the specification of price or the manner for determining the price of any such oil or product, or both of the matters described in subparagraphs (A) and (B), may take effect only pursuant to the provisions of this subsection. . . .

The effect of the Eckhardt amendment is to strike the words "or both" from section 12(c)(1) of EPAA. As such it is, in effect, an amendment to EPAA, not to the FEA Act under consideration here, and is therefore, nongermane. . . .

MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, the purpose of the amendment is, as is stated, to limit the discretion of an administrator with respect to submission of energy actions. The Federal Energy Administration Act of 1974 provided that subject to the provisions of the procedures set forth in this act, the administrator shall be responsible for such actions as are taken by this office that adequate provision is made to meet the energy needs of the nation. To that end, they shall make such plans and direct and conduct such programs related to the

production, conservation, use, control, distribution, rationing and allocation of all forms of energy as are appropriate in connection with only those authorities or functions—and then it lists them.

What the amendment does, it limits the discretionary authority of the administrator. The act itself creates the agency and gives general authority to the administrator. It is true, of course, that there are other acts that call for certain processes but these processes are conducted under the authority of the administration as described in the energy act.

The effect of this amendment is simply to require that the FEA submit to Congress, separate from other matters, the question of price decontrol. That is, it may not package in a single proposal to Congress both price decontrol and allocation decontrol. . . .

THE CHAIRMAN:[2] The Chair is ready to rule.

The gentleman from Ohio (Mr. Brown) makes a point of order against the amendment offered by the gentleman from Texas (Mr. Eckhardt) on the ground that it is not germane to the bill.

The amendment would amend section 5 of the Federal Energy Administration act to restrict the discretion of the Administrator in the method of submitting energy action proposals to Congress, a function delegated to him by the President under the Petroleum Allocation Act of 1973. Section 5 of the Federal Energy Administration Act directs the Administrator to prepare for and conduct programs for production, conservation, use, control, distribution, rationing, and allocation of energy in connection with authorities transferred to him by law or delegated to him by the President.

The amendment of the gentleman from Texas would place a specific restriction on the exercise of that discretion to perform functions under other laws.

On March 6, 1974, when the original Federal Energy Administration Act was being considered for amendment in the Committee of the Whole, an amendment was offered to section 5 of the bill, the section of the act presently in issue. The amendment would have prohibited the Administrator from setting ceiling prices on domestic crude oil above a certain level in the exercise of the authority transferred to him in the bill, and Chairman Flynt ruled that the amendment was germane as a limitation on the discretionary authority conferred on the Administrator in that section and as a limitation not directly amending another existing law.

For the reasons stated, the Chair finds that the amendment is germane to the bill under consideration and to the Federal Energy Administration Act which it extends, and overrules the point of order.

—Amendment Restricting Use of Funds

§ 39.31 To a bill extending the existence of the Federal Energy Administration and authorizing appropriations for that agency, an amendment requiring that agency to promulgate regulations to as-

2. William H. Natcher (Ky.).

sure that the agency hearings funded by the bill are conducted in the areas to be affected by that agency's actions was held germane as a restriction on the use of funds authorized by the bill.

On June 1, 1976,[3] during consideration of H.R. 12169, Chairman William H. Natcher, of Kentucky, overruled a point of order against an amendment to the bill. The proceedings were as follows:

The Clerk read as follows:

Amendment offered by Mr. Lagomarsino: Page 10, immediately after line 4, insert the following:

REQUIREMENTS FOR HEARINGS IN AREAS AFFECTED BY RULES AND REGULATIONS OF THE ADMINISTRATOR

Sec. 3. Section 7(i)(1) is amended by adding after subparagraph (C) the following new subparagraph:

(D)(i) The Administrator shall, not later than 60 days after the date of the enactment of this subparagraph, prescribe and implement rules to assure that any hearing the expenses of which are paid by any funds authorized to be appropriated under this Act shall—

"(I) if such hearing concerns a single unit of local government or the residents thereof, be held within the boundaries of such unit; or

"(II) if such hearing concerns a single geographic area within a State or the residents thereof, be held within the boundaries of such area; or

"(III) if such hearing concerns a single State or the residents thereof, be held within such State.". . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I make a point of order. . . .

[T]he amendment is not germane. If my colleagues will observe, we have a lengthy amendment here which embodies a number of things including extensive requirements for hearings in different parts of the country. But in addition to this it vests broad new discretion in the Administrator of FEA by saying that he can have a hearing or not have a hearing, or determine none is appropriate.

It also provides new quasi-judicial powers to the Administrator of the FEA to consolidate these hearings, raising great questions. There is also a series of cross-references to a large number of other parts of the Federal Energy Agency Act and of the EPCA, and as a result it is impossible to discern very quickly just what discretions and what authorities and what requirements are imposed upon the Administrator. . . .

MR. [ROBERT J.] LAGOMARSINO [of California]: Mr. Chairman, to alleviate any doubts any of my colleagues may have regarding the germaneness of this amendment, let me stress this is an amendment dealing not with just any hearings but would be one specifically tied to any hearing with respect to the disagreement over an expenditure of FEA funds. My amendment would assure that in connection with the administrative expenses paid out for FEA, the hearings—and it does not require any hearings to be held which are not now required to be held—will

3. 122 CONG. REC. 16057, 16058, 94th Cong. 2d Sess.

be held within the jurisdictions affected. . . .

THE CHAIRMAN: The Chair is ready to rule.

The amendment offered by the gentleman from California (Mr. Lagomarsino) is limited to hearings paid for by the funds authorized in this bill. The amendment restricts the uses to which such funds may be used and is germane. The Chair therefore overrules the point of order.

—*Amendment Changing Date of Termination Offered to Substitute Abolishing Agency*

§ 39.32 Where the Committee of the Whole had under consideration a bill extending the Federal Energy Administration Act and an amendment in the nature of a substitute abolishing the Federal Energy Administration on a date certain and transferring some of its functions to other agencies, an amendment offered to such substitute changing the date for termination of such agency was held to be germane.

On June 1, 1976,(4) during consideration of H.R. 12169 in the Committee of the Whole, Chairman William H. Natcher, of Kentucky, overruled a point of order against an amendment as indicated below:

The Clerk read as follows:

Amendment offered by Mr. Fithian to the amendment in the nature of a substitute offered by Mrs. Schroeder: Strike out "That the Federal Energy Administration is abolished" and insert in lieu thereof the following section:

"Sec. 1. Section 30 of the Federal Energy Administration Act of 1974 is amended by striking out 'June 30, 1976' and inserting in lieu thereof 'September 30, 1977'."

On line 3 of section 2 insert after "shall be abolished" the words "effective September 30, 1977".

On line 4 of section 3 strike the colon and insert the words "effective September 30, 1977:". . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, the amendment must be not only germane to the amendment in the nature of a substitute and to the bill but it must be germane to the particular part of the bill to which it is addressed.

Mr. Chairman, if we will read the bill, we will observe there are two parts. There is a section 1 and a section 2. Section 1 relates to authorizations for appropriations, and section 2 relates to the extension of the life of the agency. The provisions relating to the extension of the agency itself, we will observe, are in section 2, which appears at page 10 of the bill, and while it might be desirable to have the amendment that the gentleman offers set forth as a policy from his point of view, the fact of the matter is that the amendment should be offered to the later part of the bill, section 2, printed at page 10, and not to the Schroeder amendment as offered. . . .

4. 122 CONG. REC. 16025, 16026, 94th Cong. 2d Sess.

MR. [FLOYD J.] FITHIAN [of Indiana]: Mr. Chairman, I recognize what the distinguished subcommittee chairman is speaking about, but I would call to his attention the fact that the extension of the life of the Federal Energy Administration affects both section 1 and section 2. Therefore, it seems to me that in the normal, orderly process of the business of the House, we ought to offer this amendment at the earlier time.

We should note that the amendment that has been offered clearly indicates that in section 1, section 30 of the Federal Energy Administration Act of 1974 is amended by striking out "June 30, 1976," which is in section 1, and extending it to another date which is 15 months hence. Therefore, Mr. Chairman, I think what we now have to decide is whether or not we can proceed to debate a matter which we can alter and come out halfway between the Schroeder position and the Dingell position. That, it seems to me, is not altogether unreasonable, Mr. Chairman. . . .

THE CHAIRMAN: The Chair is ready to rule.

The amendment offered by the gentlewoman from Colorado (Mrs. Schroeder) is an amendment in the nature of a substitute for the entire bill and the Schroeder amendment is open to amendment at any point. The amendment offered by the gentleman from Indiana (Mr. Fithian) simply changes the date in the Schroeder amendment when FEA is to be abolished. It simply provides for a change of date.

The amendment is germane to the amendment in the nature of a substitute offered by the gentlewoman from Colorado (Mrs. Schroeder). The Chair, therefore, overrules the point of order.

Authorization Bill—Amendment to Permanent Law

§ 39.33 A bill authorizing appropriations to an agency for one year but not amending the organic law by extending the existence of that agency does not necessarily open up that law to amendments which are not directly related to a subject contained in the bill; accordingly, to a bill providing an annual authorization for the Energy Research and Development Administration, but not amending the basic law which created that agency, an amendment to such law, extending the existence of the Energy Resources Council (an entity not referred to in the pending bill), was held to be not germane.

During consideration of H.R. 13350 in the Committee of the Whole on May 20, 1976,[5] the

5. 122 CONG. REC. 14912, 14913, 94th Cong. 2d Sess.

See also §§ 39.35 and 41.14, infra, for similar instances in which a bill extended only an authorization. Compare §§ 39.28, 39.30–39.32, supra, in which the bill sought to ex-

Chair sustained a point of order against the following amendment:

MR. [BARRY] GOLDWATER [Jr., of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Goldwater: On page 32, between lines 6 and 7, insert a new section to read as follows:

"Sec. 405. Section 108(d) of the Energy Reorganization Act of 1974 (42 U.S.C. 5818(d)) is amended by striking the words 'two years' and inserting therein 'four years', and at the end thereof adding the following:

"'Beginning February 1, 1977, the Council shall annually provide to Congress a detailed report of the actions it has taken or not taken in the preceding fiscal year to carry out the duties and functions referred to in subsection (b) of this section, together with such recommendations, including legislative recommendations, the Council may have concerning the development and implementation of energy policy and the management of energy resources. The report shall include such other information as may be helpful to the Congress and the public.'". . .

MR. [JACK] BROOKS [of Texas]: Mr. Chairman, I make the point of order that the amendment is not germane to H.R. 13350.

The bill authorizes appropriations for 1 year for the programs administered by the Energy Research and Development Administration.

The amendment would have the effect of making permanent the Energy Resources Council, a body established within the Executive Office of the President. Such an amendment is clearly beyond the scope of a 1-year authorization bill and is, therefore, not germane.

Mr. Chairman, I would ask that the point of order be sustained, and I specifically refer to rule XVI, clause 7. . . .

MR. GOLDWATER: . . . Mr. Chairman, the amendment is directly related to subject matter of the bill—ERDA's programs and how they are carried out under the Energy Reorganization Act.

The Reorganization Act created ERDA and its programs and also the Energy Resources Council to insure the full and complete coordination of those programs and all other energy agencies and programs. ERDA's programs and the ERC go hand and glove in a programmatic sense.

FUNDAMENTAL PURPOSE AS TEST

The fundamental purpose of the amendment is to continue our only statutory mechanism for coordinating our energy programs to insure they are effective and not duplicative.

Last year, section 309 of the Authorization Act stated:

> The administrator shall coordinate nonnuclear programs of the Administration with the heads of relevant Federal agencies in order to minimize unnecessary duplication.

My amendment addresses that same goal—avoiding duplication and maximizing effectiveness.

COMMITTEE JURISDICTION

The Science Committee and JAEC have sole jurisdiction over energy R. & D. programs.

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tend the existence of an agency, and amendments to the organic law creating that agency were held to be germane to the bill if germane to the basic law.

Once the ERC was established, it came under the jurisdiction of the energy committees who must have responsibility for legislating effective energy programs. If we do not have it, no one does.

The ERC does not have a separate staff. It uses agency personnel on assignment in the agency's area of responsibility. So ERDA personnel can and do staff ERC functions. This bill provides the funds in program support for those employees. Therefore, this bill actually will fund the extended activities of ERC in fiscal year 1977 under my amendment.

GENERAL VERSUS SPECIFIC

This is specific amendment to the general provisions. It is an ERDA program-wide provision, that is to have a continued, statutory mechanism for coordination of all energy programs.

AMENDMENT TO EXISTING LAW

The amendment merely extends the ERC for 2 years by a minimal change in the Energy Reorganization Act. The thrust is basically programmatic in nature, not a substantive change.

The bill is under the Reorganization Act, and further the Reorganization Act requires in section 305 that there be an annual authorization for "appropriations made under this act."

The Reorganization Act, the ERDA program and the ERC—under section 108—of the act are all tied together.

KEY POINT

The amendment is germane, because this bill includes program support for the salaries of ERDA employees who staff parts of the Energy Resources Council.

THE CHAIRMAN:[6] The Chair is prepared to rule.

The Chair has examined the amendment and has listened to the argument in support of the point of order and to the argument presented by the gentleman from California (Mr. Goldwater) very carefully and it, indeed, is an argument which deserves the careful attention of the Chair.

The Chair would call attention to the fact that the amendment offered by the gentleman from California (Mr. Goldwater) seeks to amend the Energy Reorganization Act of 1974 by extending the life of the Energy Resources Council.

The point of order is made that the amendment is not germane and that the amendment goes beyond the scope of the bill before us.

The bill before the committee at this time is an annual authorization bill. It is a bill to authorize appropriations for the Energy Research and Development Administration and does not amend the basic organic statute which established ERDA.

The Chair is constrained to state that, in his opinion, the amendment offered by the gentleman from California (Mr. Goldwater) goes beyond the scope of the bill which is pending before the committee at this time in that that bill does not directly amend the Energy Reorganization Act of 1974 nor does it deal with the Council as a separate entity.

The Chair would refer to Deschler's Procedure, chapter 28, section 33, and the numerous precedents set out there concerning amendments changing existing law to bills not citing that law.

6. J. Edward Roush (Ind.).

The Chair, therefore, sustains the point of order.

Revenue-Sharing Program: Authorization for One Year—Amendment To Extend Program for Three Years

§ 39.34 To a proposition to appropriate or to authorize appropriations for only one year (and containing no provisions extending beyond that year) an amendment to extend the appropriation or authorization to another year is not germane; thus, to an amendment in the nature of a substitute extending for one year the entitlement authorization for revenue-sharing during fiscal year 1981 and containing conforming changes in the law which would not effectively extend beyond that year, an amendment extending the revenue-sharing program for three years was held broader in scope and not germane.

During consideration of H.R. 7112 [7] in the Committee of the Whole on Nov. 13, 1980,[8] it was demonstrated that the test of germaneness of a perfecting amendment to an amendment in the nature of a substitute for a bill is its relationship to said substitute, and not to the original bill. The proceedings were as follows:

MR. [FRANK] HORTON [of New York]: Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Horton: Strike out everything after the enacting clause and insert in lieu thereof the following:

Section 1. Short Title.

This Act may be cited as the "State and Local Fiscal Assistance Act Amendments of 1980".

Sec. 2. Extension of Program.

(a) Authorization of Appropriations.—Section 105(c)(1) of the State and Local Fiscal Assistance Act of 1972 is amended by adding at the end thereof the following: "In addition, there are authorized to be appropriated to the Trust Fund $4,566,700,000 to pay the entitlements of units of local government hereinafter provided for the entitlement period beginning October 1, 1980, and ending September 30, 1981.". . .

An amendment was offered:

Amendment offered by Mr. Wydler to the amendment in the nature of a substitute offered by Mr. Horton: On page 1 of the amendment of the gentleman from New York, strike out section 2 and insert in lieu thereof the following:

Sec. 2. Extension of Program.

(a) Authorization of Appropriations for Local Share.—Section 105(c)(1) of the State and Local Fiscal Assist-

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7. The State and Local Fiscal Assistance Act Amendments of 1980.

8. 126 CONG. REC. 29523–28, 96th Cong. 2d Sess.

ance Act of 1972 is amended by adding at the end thereof the following: ''In addition, there are authorized to be appropriated to the Trust Fund to pay the entitlements of units of local government hereinafter provided $4,566,700,000 for each of the entitlement periods beginning October 1 of 1980, 1981, and 1982.''. . .

MR. [JACK] BROOKS [of Texas]: Mr. Chairman, the amendment is not germane to the Horton substitute. It is in violation of rule XVI against nongermane amendments. The Horton substitute is limited to an extension of this legislation in 1981 only. The amendment, however, seeks to add language dealing with fiscal years 1982 and 1983. This is a different subject from that of the Horton substitute and does not conform to the rule. The Horton substitute was very carefully drafted and restricted to units of local government for the entitlement period beginning October 1, 1980, and ending September 30, 1981.

The proposed amendment is a different subject matter, dealing with State governments for a different period of time.

The rule is quite clear on this matter. To admit such an amendment would cause great confusion in the legislative process of the House. It should be ruled out of order, Mr. Chairman. . . .

MR. [JOHN W.] WYDLER [of New York]: Mr. Chairman, the amendment to the amendment that I have offered deals with exactly the same subject matter as in the amendment that has been offered by the gentleman from New York (Mr. Horton). It does deal with a longer time period, but it is the same time period exactly that is contained in the legislation. It deals with other matters which are contained in the general legislation, so I feel it is well within the parameters of the bill it is trying to be substituted for.

THE CHAIRMAN:[9] The Chair is prepared to rule.

In the opinion of the Chair, the fundamental purpose of the amendment offered by the gentleman from New York (Mr. Horton), in the nature of a substitute, is to extend for 1 year the entitlement authorization for revenue-sharing payments to local governments during fiscal year 1981.

Any amendment offered thereto must be germane to the Horton amendment. It will not be sufficient that the amendment be germane to the committee bill. Under the precedents, to a proposition to appropriate for only 1 year, an amendment to extend the appropriation to another year, is not germane; Cannon's Precedents, volume 8, section 2913.

In the opinion of the Chair, the Horton amendment and the conforming changes therein have as their fundamental purpose the extension of local entitlements for only 1 year and do not thereby open up the amendment to permanent or multiyear changes in the revenue-sharing law.

For that reason, the Chair sustains the point of order.

Nuclear Regulatory Commission Authorization Act—Amendment Making Permanent Changes in Organization

§ 39.35 An amendment making permanent changes in the

9. Gerry E. Studds (Mass.).

law relating to the organization of an agency is not germane to a title of a bill only authorizing annual appropriations for such agency for one fiscal year.

On Dec. 4, 1979,[10] during consideration of H.R. 2608[11] in the Committee of the Whole, Chairman Leon E. Panetta, of California, sustained a point of order against the amendment described above. The proceedings were as follows:

Title I reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1980

Sec. 101. (a) There is hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017), and section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), for the fiscal year 1980 the sum of $374,785,000 to remain available until expended. Of the total amount authorized to be appropriated: . . .

MR. [MANUEL] LUJAN [Jr., of New Mexico]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Lujan: On page 8, after line 11, insert the following:

Sec. 107. Section 201 (a) of the Energy Reorganization Act of 1974 as amended (42 U.S.C. 5841) is amended by adding immediately after paragraph (5) of that section a new paragraph to read as follows:

(6) Notwithstanding the provisions of subsection (a)(1) regarding decisions and actions of the Commission, the Commission may delegate to an individual Commissioner, including the Chairman, such authority concerning emergency response management as the Commission deems appropriate. . . .

MR. [MORRIS K.] UDALL [of Arizona]: . . . [T]he amendment amends section 201 of the Energy Reorganization Act. Neither title I we are now considering or the bill under consideration amends that law. While the rule does waive germaneness with respect to three amendments, nothing in that rule otherwise modifies the germaneness requirement, and I urge the point of order be sustained. . . .

MR. LUJAN: Mr. Chairman, let me point out that as to the germaneness and the appropriateness of this amendment, the rule makes out of order amendments to the Atomic Energy Act and not to the Energy Reorganization Act. For that reason I believe that the amendment is germane and in order.

THE CHAIRMAN: . . . [T]he Chair is prepared to rule.

Title I of the bill before the Committee provides for a 1-year authorization for the Nuclear Regulatory Commission while this amendment seeks to permanently amend the Energy Reorganization Act of 1974. Title I does not in any way amend the Energy Reorganization Act of 1974. Therefore, the

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10. 125 CONG. REC. 34083, 34089, 34090, 96th Cong. 1st Sess.

11. The Nuclear Regulatory Commission Authorization Act.

Chair finds the amendment to be nongermane under general germaneness rule, which is applicable to this bill, and the point of order is sustained.

§ 40. Amendment Continuing Temporary Law to Bill Amending That Law

National Housing Act

§ 40.1 To that part of a bill making certain substantive changes in a section of the National Housing Act solely to limit the aggregate amount of liability for all insurance thereunder, an amendment was held to be not germane which also proposed to extend for an additional period the temporary operation of provisions of such section of the act.

In the 75th Congress a bill[12] was under consideration to amend the National Housing Act. The bill stated in part:[13]

> Sec. 2. The third sentence of subsection (a) of section 2 of the National Housing Act, as amended, is amended to read as follows: "The total liability incurred by the Administrator for all insurance heretofore and hereafter granted under this section and section 6, as amended, shall not exceed in the aggregate $100,000,000."

The following amendment was offered to the bill:[14]

> Amendment offered by Mr. [Byron N.] Scott [of California]: Page 2, line 24, strike out all of lines 24 and 25 and insert:
>
> Sec. 2. Section 2(a) of the National Housing Act, as amended, is amended by striking out "April 1, 1936, and prior to April 1, 1937" and inserting in lieu thereof "April 1, 1937, and prior to April 1, 1938", by striking out "April 1, 1936, exceed 10 percent" and inserting in lieu thereof "April 1, 1937, exceed 5 percent", and by amending the third sentence thereof to.

Mr. Henry B. Steagall, of Alabama, made the point of order that the amendment was not germane to the section or to the bill, and The Chairman,[15] without elaboration, sustained the point of order.

§ 41. Amendment Changing Existing Law to Bill Citing or Making Minor Revisions in That Law

It has been noted above[16] that where a bill amends existing law,

12. S. 1228 (Committee on Banking and Currency).

13. 81 CONG. REC. 3350, 75th Cong. 1st Sess., Apr. 9, 1937.

14. *Id.* at p. 3351.

15. Paul R. Greever (Wyo.).

16. For more general discussion of the principles governing the germane-